

PROCEEDS FROM SALE OF PUBLIC LANDS.

MARCH 30, 1896.—Referred to the House Calendar and ordered to be printed.

Mr. WILSON, of Idaho, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 7708.]

The Committee on the Public Lands, to whom was referred the bills H. R. 33, 295, 1208, 1240, 3269, 3632, 3633, 5910, have had the same under consideration, and report that all of said bills seek to explain, or to equalize to a greater or less degree, and to adjust the 5 per cent accounts between the United States and each of the several public-land States, on account of the disposal of the public lands made therein, respectively, by the United States, and now recommend the indefinite postponement of all of said bills and the passage of a substitute bill (H. R. 7708), as follows, to wit:

A BILL fixing the times when, regulating the manner in which, and declaring the character of the accounts between the United States and the several public-land States, relative to the net proceeds of the sales and other disposition of the public lands made and to be made therein by the United States, which shall hereafter be stated and certified to the Treasury Department for payment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That upon the passage of this Act, and thereafter during the first month of each and every fiscal year, the Commissioner of the General Land Office be, and he is hereby, directed to make and submit to the Secretary of the Interior a statement of an account between the United States and each of the several public-land States, including California, for five per centum of the net proceeds of the sales of the public lands in each of said States which have been heretofore made by the United States and not already paid by the United States to said States, and upon such statements of accounts being made to the Secretary of the Interior he shall thereupon supervise, correct, and certify such statements of accounts to the Secretary of the Treasury for payment.

SEC. 2. That said accounts so stated shall include, embrace, and apply to all of said lands heretofore or which hereafter may be sold, located, or disposed of by the United States for cash or bounty land warrants, or land scrip, and to all lands allotted to Indians in severalty, exempt from taxation, and shall include all former and existing Indian, military, or other reservations in said States, as the same have heretofore been or may hereafter be sold, located, or disposed of, which statements shall include and state the five per centum of the value of all such lands so disposed of, estimating the value thereof at one dollar and twenty-five cents per acre, the same as if said lands had been sold for that price in cash.

SEC. 3. That upon such stated accounts being duly certified to by the Secretary of the Interior and filed with the Secretary of the Treasury, the Secretary of the Treasury shall thereupon, out of any money in the Treasury not otherwise appropriated, pay to said States, respectively, the amounts so found to be due and certified to as aforesaid.

In support of this substitute your committee submit the following report:

Section 1 fixes the definite times when, establishes a uniform manner in which, and names the officers of the Government whose duties are made mandatory, to hereafter annually state, supervise, and certify all accounts between the United States and each of the several public-land

States, in reference to 5 per cent of the cash sales, and of other disposition of all public lands made by the United States therein respectively.

Section 2 declares that said accounts, when so stated and certified, shall include:

First. All public lands embraced by lawful authority in public reservations, and all public lands allotted by lawful authority to Indians in severality, exempt from taxation.

Second. All public lands sold, located, or disposed of by lawful authority for cash, or for bounty land warrants, or for land scrip.

Section 3 recites the exact times when, names the special officer of the Government by whom, and the specific persons to whom said accounts, when allowed, shall be paid.

The question of the satisfactory adjustment between the United States and the several public-land States of the 5 per cent grant made to them by Congress of the net proceeds of the sales of the public lands situate therein, respectively, made by the United States as an equivalent for certain concessions and conditions specifically enumerated and surrendered by them upon their admission into the Union upon an equal footing with the original States, in all respects whatsoever, has been one of long standing, which, while heretofore receiving a solution satisfactory in some respects as to some States, has never been fully and finally solved to the satisfaction of all the public-land States.

Prior to September 4, 1841, certain contentions arose between the United States and the States of Alabama and Mississippi as to two-fifths of their 5 per cent grants, respectively, and these contentions Congress satisfactorily adjusted in sections 16 and 17 of the general preemption law of September 4, 1841 (5 U. S. Stats., 437).

Prior to March 2, 1855, other and different contentions arose between the United States and the States of Alabama and Mississippi, relating to certain other portions of their 5 per cent grants, respectively, which contentions, in the cases of both States, dated back to March 1, 1817; March 2, 1819, and July 4, 1836, respectively, and which contentions were also adjusted by Congress; in the one case not, however, until March 2, 1855, and in the other case not until March 3, 1857.

To adjust said Alabama contention Congress passed an act, approved March 2, 1855, entitled "An act to settle certain accounts between the United States and the State of Alabama" (10 U. S. Stats., 630), and known as the "5 per cent Alabama act."

To adjust said Mississippi contention Congress passed an act, approved March 3, 1857, entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States," and known as the "5 per cent Mississippi act."

Irrespective of the original object of this Mississippi act of March 3, 1857, the provisions of which were intended no doubt, by its author, to be confined exclusively to the State of Mississippi, as the provisions of said Alabama act had been confined exclusively to the State of Alabama, yet, nevertheless, the object intended by Congress and the result secured by its enactment was, that not only the State of Mississippi, but that all the public-land States which were in the Union on March 3, 1857, should receive, as in fact since March 3, 1857, they have all received, equally and alike in cash or in credit, 5 per cent of the value of all public lands embraced in all Indian reservations situate therein respectively, the money value of all of which lands have been estimated at \$1.25 per acre; that being the price fixed therefor by Congress, in its said act of March 3, 1857, this intention is so clearly and fully evidenced by the second section of said act of March 3, 1857, as to render comment thereon wholly unnecessary.

These two acts of March 2, 1855, and March 3, 1857, are as follows:

FIVE PER CENT ALABAMA ACT OF MARCH 2, 1855.

[Approved March 2, 1855. 10 U. S. Stats., 630.]

AN ACT entitled "An act to settle certain accounts between the United States and the State of Alabama."

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the Commissioner of the General Land Office be, and he is hereby, required to state an account between the United States and the State of Alabama, for the purpose of ascertaining what sum or sums of money are due to said State heretofore unsettled under the act of March second, eighteen hundred and nineteen, for the admission of Alabama into the Union, and that he be required to include in said account the several reservations under the various treaties with the Chickasaw, Choctaw, and Creek Indians within the limits of Alabama, and allow and pay to said State five per cent thereon as in case of other sales.

FIVE PER CENT MISSISSIPPI ACT OF MARCH 3, 1857.

[Approved March 3, 1857. 11 U. S. Stats., 200.]

AN ACT entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States."

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the Commissioner of the General Land Office be, and he is hereby, required to state an account between the United States and the State of Mississippi, for the purpose of ascertaining what sum or sums of money are due to said State, heretofore unsettled, on account of the public lands in said State, and upon the same principles and allowance as prescribed in the "Act to settle certain accounts between the United States and the State of Alabama," approved the second of March, eighteen hundred and fifty-five; and that he be required to include in said account the several reservations under the various treaties with the Chickasaw and Choctaw Indians within the limits of Mississippi, and allow and pay to the said State five per centum thereon as in case of other sales, estimating the lands at the value of one dollar and twenty-five cents per acre.

SEC. 2. *And be it further enacted,* That the said Commissioner shall also state an account between the United States and each of the other States upon the same principles, and shall allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at one dollar and twenty-five cents per acre.

Soon after the passage of these two explanatory and remedial acts, to wit, on June 19, 1857, the Secretary of the Interior, Hon. Jacob Thompson, of Mississippi, was called upon to construe the meaning and intent thereof, so as to determine whether said acts did not embrace all public lands allotted in severalty to Indians, and apply to all lands located with Indian scrip, in the State of Mississippi.

While the particular case upon which the decision which was rendered by said Secretary on March 20, 1858, arose in the State of Mississippi, yet his decision of that date was *general*, and by him it was declared that it should apply equally and alike to every other public-land State in the Union on March 3, 1857, and was to the effect that said 5 per cent Mississippi act of March 3, 1857, applied, and should be computed and paid not only on all lands embraced in any Indian reservation situate in any of the public-land States in the Union on March 3, 1857, but that it should also equally apply to all lands, irrespective of the areas thereof, in any of the public-land States, which were allotted to any Indians, or which were located by Indian scrip, irrespective of the name, kind, area, or nature of such Indian scrip.

A full copy of said Secretary's said decision of March 20, 1858, is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 20, 1858.

SIR: After mature consideration of the appeal of W. C. Smedes, esq., on behalf of the State of Mississippi, from your decision "that lands within that State located

to satisfy scrip which had been issued under the act of August 23, 1842, can not be regarded as coming within the *beneficial* provisions of the act of 3d March, 1857, entitled 'An act to settle certain accounts between the United States and the State of Mississippi and other States,' *I have decided to sustain the appeal.*

The acts of Congress of March 1, 1817, and March 2, 1819, guaranteed to the States of Mississippi and Alabama "5 per cent of the net proceeds of the lands lying within their limits, and which should be sold by Congress after certain specific dates."

The act of Congress of July 4, 1836, entitled "An act to carry into effect in the States of Mississippi and Alabama the existing compact with those States in regard to the 5 per cent fund," etc., admitted the claim of these States to 5 per cent of such sums of money as were equal to the avails of the sales of lands within their respective limits, then recently ceded by the Chickasaw Indians, *although the net proceeds of those sales were not realized by the United States Treasury.*

The principle was thus indicated, *that when lands within those States had been disposed of by the United States to satisfy stipulations of an Indian treaty, they should as respects the calculation and payment of the 5 per cent, be placed on the same footing as the lands sold by Congress.*

The act of March 3, 1855, "To settle certain accounts between the United States and the State of Alabama," confirmed that principle and declared its applicability to lands within Alabama, which had been reserved by the treaties with Chickasaws, Choctaws, and Creeks.

The same principle of adjustment is reaffirmed in the act of March 3, 1857, and is to be applied in the case of Mississippi as regards the several reservations under various treaties with the Chickasaws and Choctaw Indians within the limits of Mississippi.

In this connection the principle of adjustment established appears plainly to have been intended to embrace all the lands within the State disposed of by the United States to satisfy the stipulations of the treaties with the Indian tribes named.

Within this class the tracts taken to satisfy the scrip which had its foundation in the Choctaw treaty of 1830 are as plainly included as the tracts more directly selected by the Indians to satisfy their rights under the treaty.

This same principle of adjustment the second section of the act now under discussion extends to be applied in the settlements of the 5 per cent accounts of the other States.

Thus, as regards justice and right, Alabama and Mississippi are entitled to a liberal construction of the acts of Congress of March 2, 1855, and March 3, 1857, and as a matter of equity between these two States as claimants as against these United States, and as between them and other States of the Union, all are entitled to the same equal and liberal construction in carrying the act of 1857 into effect.

I therefore decide that the lands within Mississippi taken by locations in satisfaction of Choctaw scrip issued under the acts of Congress of August 23, 1842, and August 3, 1846, in stating and adjusting the 5 per cent accounts of that State, are to be regarded as constituting a portion of the "several reservations under the various treaties with the Choctaw and Chickasaw Indians."

The papers submitted with your report of the 19th of June (June 19, 1857), and others since filed here in this case, are now returned to your office.

Very respectfully, your obedient servant,

J. THOMPSON, *Secretary.*

COMMISSIONER OF THE GENERAL LAND OFFICE.

Said act of March 3, 1857, so construed and administered up to this date by the Interior Department under said decision, gave to each of the public-land States in the Union on March 3, 1857, which had Indian reservations, Indian lands, or lands located by Indian scrip within their limits, payment or credit, as follows:

First. Five per cent of the net proceeds of the sales of all public lands situate therein, respectively, sold by the United States for cash.

Second. Five per cent of the value of all public lands situate therein embraced in Indian reservations, estimating them at a value of \$1.25 per acre, the same as if all of said lands had been actually sold by the United States for that price in cash.

Third. Five per cent of the value of all public lands situate therein embraced in allotments to Indians, estimating them at a value of \$1.25 per acre, the same as if all of said lands had been actually sold by the United States for that price in cash.

Fourth. Five per cent of the value of all public lands situate therein embraced in locations by Indian scrip, estimating them at a value of

\$1.25 per acre, the same as if all of said lands had been actually sold by the United States for that price in cash.

These two acts of March 2, 1855, and March 3, 1857, and the history of the legislative proceedings which led up to their enactment by Congress, and the executive construction given to them by the Interior Department, by which both were duly administered, are fully and ably discussed in sundry reports heretofore made to the House and Senate on this general 5 per cent subject. Copies of portions of certain of which reports, where not included in this report, are, in a condensed form, submitted herewith and marked Exhibit No. 1, Subdivisions A, B, C, D, E, F, G, H, respectively, taken from the reports as follows:

1. House Report No. 345, Forty-seventh Congress, first session.
2. House Report No. 1522, Fifty-third Congress, third session.
3. Senate Report No. 193, Forty-seventh Congress, first session.
4. Senate Report No. 775, Fifty-second Congress, first session.
5. Senate Report No. 1043, Fifty-third Congress, third session.
6. Senate Report No. 226, Fifty-fourth Congress, first session.

These same two acts of March 2, 1855, and of March 3, 1857, intended by Congress to be explanatory, remedial, and beneficial to the States which were in the Union on March 3, 1857, have also received a judicial interpretation and construction by the United States Supreme Court in the case brought before that court by the State of Indiana, entitled "*The State of Indiana v. The United States*," on appeal thereto from the United States Court of Claims, wherein the States of Ohio and Illinois also, at the same time, filed, under said act of March 3, 1857, petitions similar in all respects to the petition filed thereunder by the State of Indiana, each claiming two-fifths, in cash, of their 5 per cent grants, respectively, and theretofore withheld and expended by the United States in their behalf to build the National or Cumberland road, etc.

In that case, the Supreme Court (148 U. S., 148) declared the meaning of said two acts to be in effect: That all reservations of the public lands, made by lawful authority for the use and benefit of Indians in the public-land States which were in the Union on March 3, 1857, were intended by Congress to be a disposition and sale of all lands embraced in such reservations, the same as if all thereof had been actually sold by the United States for cash at \$1.25 per acre, and that the duty of the proper officers of the United States, having first ascertained and determined the exact acreage or areas of all public lands embraced in said reservations, was to compute the money value of all thereof at \$1.25 per acre, and upon that computation to state an account between the United States and each of the several public-land States in the Union on March 3, 1857, for 5 per cent of such total valuation and computation, and to pay to said public-land States the sums of money so ascertained, the same as in the case of other cash sales of the public lands made by the United States in said public-land States respectively.

About the dates when the States of Indiana, Illinois, and Ohio filed their said petitions in the Court of Claims under said act of March 3, 1857, the States of California and Nevada also filed similar petitions in said court under the same act—the State of California claiming 5 per cent of the net proceeds of the sales of all public lands situate therein and sold by the United States for cash, and also 5 per cent of the value of all public lands embraced in Indian reservations, estimating such value at \$1.25 per acre, and the State of Nevada claiming 5 per cent of the value of all public lands situate therein, embraced in Indian reservations only, at an estimated value of \$1.25 per acre.

In its decision in said Indiana case the United States Supreme Court in effect decided that said act of March 3, 1857, applied only to the public-land States which were in the Union on March 3, 1857, and as Nevada was not admitted into the Union until March 16, 1864 (13 U. S. Stats. 32), that fact excluded Nevada from the beneficial provisions of said act of March 3, 1857.

California was in the Union on March 3, 1857, but as Congress had not theretofore extended the 5 per cent grant of the cash sales to that State, that fact excluded California from the beneficial provisions of said act of March 3, 1857.

The case of the State of Indiana *v.* The United States was selected as a test case whereby to determine the meaning of said act of March 3, 1857, the decision wherein would conclude, and did conclude, the other States then petitioners before the United States Court of Claims, under the provisions thereof, in so far as the matters prayed for in their said petitions were then concerned.

Under said two acts and under said Executive construction and judicial interpretation thereof, all the public-land States in the Union on March 3, 1857, have received a full payment or a full credit for 5 per cent of the value at \$1.25 per acre of all public lands situate therein, embraced in Indian reservations, in Indian allotments, and in locations by Indian scrip, the same as if all of said lands had been actually sold by the United States at that price for cash.

In other words, from these two acts, declaring the intention of Congress, and as they have been administered by the Interior Department, and as they were interpreted by the United States Supreme Court, the policy of the United States is easily deducible, at least up to March 3, 1857 (since which date it has not been changed by Congress, even though a different policy now obtains in the Interior Department as to all public-land States admitted into the Union subsequent to March 3, 1857), and which policy was and is to this effect, to wit:

That in dealing with the public-land States as to their 5 per cent grant, and in stating the accounts between the United States and said States therefor, the proper officers of the United States should include in said 5 per cent accounts all public lands embraced in Indian reservations, in Indian allotments, and in locations by Indian scrip, and should treat the same as if all of said lands had been actually sold by the United States for cash at \$1.25 per acre, and should allow and pay said public-land States 5 per cent of their estimated valuation of \$1.25 per acre.

Prior to February 28, 1859, a contention also arose between the United States and the State of Missouri as to two-fifths of her 5 per cent grant, and this contention Congress satisfactorily adjusted in its act approved February 28, 1859 (11 U. S. Stats., 388).

In fact, subsequent to March 3, 1857, three other contentions arose in the Interior and Treasury Departments, in the cases of Kansas, Nebraska, and Minnesota, all three of which States were admitted in the Union subsequent to March 3, 1857.

Certain 5 per cent accounts of said three States, in so far as Indian reservations were concerned, were stated, allowed, and paid, which embraced lands included in former Indian reservations in said three States, respectively, the official evidence whereof is recited in a letter from the office of the Auditor for the Interior Department under date of February 28, 1896, with accompanying papers, which are submitted in the appendix hereto, marked Exhibit No. 2.

As all the public-land States admitted into the Union subsequent

to March 3, 1857, were admitted on a footing of perfect equality with each other and with the original States, and with the public-land States admitted prior to March 3, 1857, there does not and can not exist any valid reason in equity why said legislation of Congress of March 3, 1857, enacted for and fully enjoyed by all the public-land States in the Union on that date, should not now be extended to and be now equally enjoyed by the public-land States admitted into the Union subsequent to March 3, 1857.

That is all there is in section 2 of this substitute bill, in so far as the same relates to lands allotted to Indians in severalty, exempt from taxation, and as to lands embraced in Indian reservations and locations by Indian scrip are concerned, said 5 per cent in fact not applying to Indian reservations until such time as the lands embraced therein may have been or may be sold, located, or disposed of.

In a letter addressed by the honorable Commissioner of the General Land Office of February 7, 1892, to the honorable Secretary of the Interior and printed on pages 55-56 of Senate Report No. 226, Fifty-fourth Congress, first session, said officer reported as follows, to wit:

In the decision of the Honorable Secretary of the Interior (Jacob Thompson) dated March 20, 1858, it was held "that the lands within Mississippi, taken by locations in satisfaction of Choctaw scrip under the act of Congress of 23d August, 1842, and 3d August, 1846, in adjusting the 5 per cent account of the State, are to be regarded as constituting a portion of 'the several reservations under the various treaties with the Choctaw and Chickasaw Indians.'" In the same decision it was also held that "other States of the Union are all entitled to the same equal and liberal construction in carrying the act of 1857 into effect."

Under the acts and ruling quoted adjustments were made of 5 per cent on the value of Indian land and Indian scrip locations in favor of the several States, as follows:

Alabama.....	\$128,336.42
Mississippi.....	167,686.17
Ohio.....	850.73
Indiana.....	6,333.73
Illinois.....	2,609.66
Iowa.....	7,562.94
Michigan.....	18,947.86
Wisconsin.....	41,647.13

No accounts were stated in favor of Louisiana, Missouri, Arkansas, Florida, or California under the act of March 3, 1857, probably because there were no Indian reservations at that time within the limits of those States, excepting the latter-named State, which was not included in the 5 per cent grant.

While Congress intended, no doubt, that its aforesaid legislation of March 3, 1857, should apply equally and alike to each and every public-land State in the Union on that date, in which public lands and Indian reservations were then situate, in so far as the public lands therein respectively had theretofore been disposed of by the United States for cash and by Indian reservations, and upon which 5 per cent could and after that date should be computed, yet the fact is that the honorable Commissioner of the General Land Office has ever heretofore made the State of California an exception to said general legislation, but wherein Congress did not make any exception whatsoever.

Therefore, from April 22, 1850, as recited in Senate Mis. Doc. 105, Thirty-first Congress, first session, being the ordinance of the convention assembled to form a constitution for the State of California prior to her admission into the Union, down to the present time, California has been and still is a petitioner before Congress, asking either that the provisions of said 5 per cent Mississippi act or some similar act be extended to her, and that she be made no exception to this class of legislation by Congress, or that she may be placed upon the same plane

of equality as that heretofore occupied and enjoyed or which hereafter may be occupied and enjoyed by all the other public-land States, as to said 5 per cent grant, from which plane California is to-day the only public-land State in the Union which has been heretofore excluded.

California is the only public-land State ever admitted into the Union without an enabling act, though in her act of admission into the Union, on September 9, 1850 (9 Stat. L., 452), Congress exacted from California, and California duly surrendered therein to the United States, certain specific concessions or conditions similar in all respects to those so exacted by Congress from and so surrendered to the United States by each of the other public-land States in their respective enabling acts, and as an equivalent or in consideration for all of which, in each and every case, each of the public land States was granted by Congress 5 per cent of the net proceeds of the sales of the public lands made therein by the United States.

California is the only public-land State in the Union to which the 5 per cent grant has not as yet been extended. In view of the fact that upon her admission as a State in the Union California surrendered to the United States concessions similar to those surrendered by each of the other public-land States, and in consideration whereof said 5 per cent grant was made to them by Congress as an equivalent therefor, your committee is of opinion that no valid reason exists why this 5 per cent grant should not have long since been equally extended to California.

The principle of equality among the several States of the Union and that of equity and fair dealing with all the public-land States alike demand that California, having been declared by Congress, on September 9, 1850, to be one of the States of the United States of America, and having been duly admitted into the Union on that date as a public-land State without an enabling act, but on an equal footing with the original States in all respects whatsoever, and having duly surrendered to the United States in her act of admission concessions and conditions exacted from her by Congress similar in all respects to those so exacted from and so surrendered by every other public-land State, and as equivalent considerations therefor every one of the public-land States now in the Union has heretofore been granted by Congress 5 per cent of the net proceeds of the cash sales of the public lands therein made by the United States, ought now to be, as she ought ever to have been, in the Union on a plane not of difference from, but of perfect equality with, each and all of the other public-land States as to this 5 per cent grant.

Under this legislation of Congress of March 2, 1855, and of March 3, 1857, supplementing, explaining, and declaring the meaning of its prior legislation relating to the 5 per cent grant made to the public-land States admitted into the Union prior to March 3, 1857, in so far as cash sales and Indian reservations were concerned, there have been credited to the States entitled thereto, California alone excepted, on the books of the Treasury Department up to June 30, 1891, and duly paid, an amount of money aggregating the sum of \$9,292,453.80, as shown by a table, certified on May 25, 1892, by the Hon. Thomas H. Carter, then Commissioner of the General Land Office, now a Senator from Montana, as follows, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 25, 1892.

SIR: Replying to your communication of the 9th instant, I have the honor to transmit herewith a table showing the amounts which have been paid to the various States named in your letter on account of the grant of 5 per cent of the net pro-

ceeds from the sales of public lands therein, from their organization to the present time, excepting only the States of Georgia, Kentucky, and Tennessee. The United States has never sold or possessed any public lands in these States.

Very respectfully,

HON. R. F. PETTIGREW,
United States Senate.

THOS. H. CARTER, *Commissioner.*

Statement showing the amounts accrued and paid to the following-named States as 5 per cent of the net proceeds of the sales of public and Indian lands.

State.	Period embraced by adjustments.	Total amount paid.
Florida	Mar. 3, 1845, to June 30, 1891	\$110,562.73
Alabama	Sept. 1, 1819, to June 30, 1891	1,065,555.53
Mississippi	Dec. 1, 1817, to June 30, 1888	1,048,316.18
Louisiana	Jan. 1, 1812, to June 30, 1889	435,433.59
Arkansas	July 1, 1836, to June 30, 1888	263,064.55
Missouri	Jan. 1, 1821, to June 30, 1891	1,028,574.73
Indiana	Dec. 1, 1816, to Dec. 31, 1871	1,040,255.26
Iowa	Dec. 28, 1846, to Dec. 31, 1873	633,638.10
Illinois	Jan. 1, 1819, to Dec. 31, 1860	1,187,908.89
Ohio	June 30, 1802, to Dec. 31, 1871	1,027,677.00
Minnesota	May 11, 1858, to June 30, 1889	322,695.35
Michigan	July 1, 1836, to June 30, 1891	562,055.60
Wisconsin	May 29, 1848, to June 30, 1891	566,716.38
Grand total .....	.....	9,292,453.89

The total amount of all payments and credits to the several public-land States distributed under said acts of March 2, 1855, and March 3, 1857, and other 5 per cent acts subsequent and prior to March 3, 1857, up to June 30, 1895, is recited in the appendix hereto, Exhibit No. 3. If the amount of the 5 per cent on account of Indian lands was large, it was only because the acreage thereof was large, and if small then only because such acreage was small, said amounts being in direct proportion to such acreage; but the principle upon which this 5 per cent computation was based was the same in all cases and applied equally and alike to all public-land States in the Union on March 3, 1857, irrespective of their area, irrespective of the acreage of said reservations, and irrespective of the date of the admission of said States into the Union. Why, therefore, should not the principle of equality so applied by Congress to all the public-land States admitted into the Union prior to March 3, 1857, be also equally and alike applied to all the public-land States admitted into the Union subsequent to March 3, 1857? Your committee do not see any valid reason in law or in equity why this same principle of equality should not be applied equally and alike to all the public-land States now in the Union irrespective of their dates of admission into the Union.

The total amount of money distributed among all the nonpublic-land States under the act of September 4, 1841 (4 U. S. Stats., 437), and also the amount distributed among the several public-land States in the Union on March 3, 1857, which were also in the Union on September 4, 1841, as a grant to them of 10 per cent of the net proceeds of the sales of the public lands, in addition to their original 5 per cent grant thereof, is recited in the appendix hereto, Exhibit No. 4.

The total amount of money deposited with the public-land States and nonpublic-land States of the Union under the act of June 23, 1836

(5 U. S. Stats., 55), is recited in the table and letter from the Treasury Department of February 25, 1896, as follows:

TREASURY DEPARTMENT, OFFICE OF THE TREASURER,
Washington, D. C., February 25, 1896.

SIR: In compliance with the request made in your letter of the 22d instant, I inclose herewith a list of the States with which deposits were made under the act of June 23, 1836, and the amounts deposited with each.

Respectfully, yours,

D. N. MORGAN, *Treasurer United States.*

Hon. GROVE L. JOHNSON,
House of Representatives.

States with which deposits of money were made under the act of June 23, 1836.

Maine.....	\$955,838.25	Maryland.....	\$955,838.25
New Hampshire.....	669,086.79	Virginia.....	2,198,427.99
Vermont.....	669,086.79	North Carolina.....	1,433,757.39
Massachusetts.....	1,338,173.58	South Carolina.....	1,051,422.09
Connecticut.....	764,670.60	Georgia.....	1,051,422.09
Rhode Island.....	382,335.30	Alabama.....	669,086.79
New York.....	4,014,520.71	Louisiana.....	477,919.14
Pennsylvania.....	2,867,514.78	Mississippi.....	382,335.30
New Jersey.....	764,670.60	Tennessee.....	1,433,757.39
Ohio.....	2,007,260.34	Kentucky.....	1,433,757.39
Indiana.....	860,254.44	Missouri.....	382,335.30
Illinois.....	477,919.14	Arkansas.....	286,751.49
Michigan.....	286,751.49		
Delaware.....	286,751.49	Total.....	28,101,644.91

From this table it will be seen that there was distributed among the 17 nonpublic-land States therein named the sum of \$22,271,041.48, as follows:

1. Maine.....	\$955,838.25	11. Maryland.....	\$955,838.25
2. New Hampshire.....	669,086.79	12. Virginia.....	2,198,427.99
3. Vermont.....	669,086.79	13. North Carolina.....	1,433,757.39
4. Massachusetts.....	1,338,173.58	14. South Carolina.....	1,051,422.09
5. Connecticut.....	764,670.60	15. Georgia.....	1,051,422.09
6. Rhode Island.....	382,335.30	16. Tennessee.....	1,433,757.39
7. New York.....	4,014,520.71	17. Kentucky.....	1,433,757.39
8. Pennsylvania.....	2,867,514.78		
9. New Jersey.....	764,670.60	Total.....	22,271,041.48
10. Delaware.....	286,751.49		

The basic principle underlying, and upon which Congress constructed its said acts of March 2, 1855, and March 3, 1857, and other acts herein referred to, relating to said 5 per cent grant, was evidently to the effect, that having granted to the several public-land States 5 per cent of the value of all public lands situate therein on their admission into the Union, that if in any of said States there should be established by lawful authority for public purposes any public reservations of the public lands, the legal effect of which was to thereby exclude from sale for cash the public lands pro tanto, embraced in such reservations, that Congress, in good faith and fair dealing to said States, declared that the proper officers of the Government should treat all public lands so reserved as being sold, just the same as if they had been actually sold for cash at \$1.25 per acre, and that the public-land States, in which such reservations were established, should not be deprived, but should receive their full 5 per cent of the value of such lands, estimating said value at \$1.25 per acre, the same as if all of said land had been actually sold by the United States for that price in cash.

Indian reservations are public reservations of public lands, reserved by authority of law for the exclusive use and benefit of Indians; they are carved out of the public domain, with specific metes and bounds, segregated by law and in fact by survey, and monumented by demarcations on the ground; they are excluded from local taxation, from local control, and from local jurisdiction for all purposes whatsoever, even excluded from local police regulations; as much excluded from the jurisdiction of the State in which they are established as if they were located in a foreign jurisdiction, and the law so in fact treats them.

As said by Mr. Justice Miller in 110 United States, 485, it was in order not to "cheat" said States, that Congress, when its attention was called thereto, and the exercise of its jurisdiction invoked in so far as said 5 per cent grant related to public land embraced in Indian reservations, Indian allotments, and Indian scrip locations were concerned, enacted the aforesaid remedial statutes of March 2, 1855, and March 3, 1857, not only to effectually and effectively remedy the evils then complained of, but to establish a policy which should be made equally applicable to all public-land States where similar conditions do or might obtain.

Why, then, should not the principle which Congress declared in the beneficial provisions of its said acts of March 2, 1855, and March 3, 1857, equally and alike apply to any other public reservation of the public land made under due authority of law for public uses, and for public purposes, and for the public benefit, whether such reservations are established for the Indian service, or for the military service, or for the naval service, or for any other public service, whereby such reservations were or are for the exclusive use and benefit of the entire public of all the States of the Union, and wherein the public and nonpublic land States were or are, each and all, equally and alike interested.

Whatever difference there may be in name as to such public reservations, or in the name of the public purposes for which they were duly established by law, or in the name of the objects to which they were exclusively legally dedicated, there can not be any difference in principle, and there should not be any difference in the intention of Congress in the application of its good faith to all these premises; and, as Mr. Justice Miller substantially declared, that it would be the merest quibble to otherwise declare and attempt to maintain.

The State of Iowa, restive under the adverse rulings of the Interior Department in the administration of her 5 per cent grant, and that State and the State of Illinois, impatient at the prolonged delay of Congress in acting upon their appeal and the appeal of other public-land States to remedy the wrong inflicted upon them by the hostile action of the Interior Department in its rulings as to their 5 per cent grant, and said two States believing they had an adequate remedy at law, availing of a constitutional right, did, in 1883, initiate a legal proceeding, as hazardous as it was extraordinary, by invoking the original jurisdiction of the United States Supreme Court to issue a writ of mandamus to compel, not the Secretary of the Interior or the Commissioner of the General Land Office, but N. C. McFarland only, who was then the Commissioner of the General Land Office, to state their 5 per cent accounts under said act of March 3, 1857, so as to embrace and include all sales and locations of public lands made by the United States in said States for military bounty land warrants.

Said court (110 U. S., 485) decided that it had no jurisdiction in the premises, and that is the only point which said court did actually decide in said 5 per cent cases, and hence all recitals, in their opinion, other than that were obiter dicta.

Special attention is also called to the second section of said act of March 3, 1857, which is in words as follows:

SEC. 2. *And be it further enacted*, That the said Commissioner shall also state an account between the United States and each of the other States upon the same principles; and shall allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at \$1.25 per acre.

The meaning and evident intention of Congress, in the use of language so plain as that used in said section, was to the effect, to wit:

That the Commissioner of the General Land Office, when stating a 5 per cent account between the United States and any public-land State for the 5 per cent of the net proceeds of the sales of the public lands situate therein, and made by the United States, should estimate all lands and permanent reservations situate therein at a valuation of \$1.25 per acre, and to compute said 5 per cent upon said valuation, and to allow and pay to such State the amount of money so found due.

To repeat said language of Congress in said section 2 of said act of March 3, 1857, is substantially to state the case of section 2 of this bill, in so far as regards all lands and permanent reservations. Additional words therein might possibly confuse and confound, but certainly could not clarify or strengthen the meaning of said section, but speaking for itself it should need no interpreter to ascertain or declare its meaning, and one of the objects of this bill is to extend the provisions of this section 2 of said act to the public-land States admitted into the Union subsequent to March 3, 1857, but to a less degree, and in a modified form.

When reservations for public purposes are established by due authority of law by the United States in any of the nonpublic-land States, the private property taken therefor by purchase or condemnation is paid for with cash, taken from a public fund in the public Treasury, contributed equally by all the States of the Union, public and nonpublic-land States alike. So, too, when reservations for public purposes are established by due authority of law by the United States, in any of the public land States, by using the public lands therefor, and which public-lands represent so much cash or its equivalent to the public Treasury, and the taking of which public lands for such purposes works to the detriment of the particular public land State in which such public reservation is so established, by diminishing pro tanto its 5 per cent cash fund, why should not all the States of the Union contribute equally and alike out of that same public fund their proportionate share to indemnify such public-land State the amount of cash by which it is thereby deprived?

To do so is to do equity to such public-land State, and not to do so, Mr. Justice Miller said, would be to "cheat" such State.

The principle of equality of the several public-land States of the Union was never better stated than as stated by the present chairman of the House Committee on the Public Lands, Hon. John F. Lacey, in his able House Report No. 1522, presented to the House during the Fifty-third Congress, to accompany a general 5 per cent bill and in support thereof, wherein he said as follows:

As each and all of the several public-land States, when admitted into the Union, duly surrendered to the United States similar concessions, so, too, the consideration to them therefor from the United States should be, and has been, intended to be similar equivalents, to be measured and meted out to them respectively in proportion to the area of the public lands in each, and irrespective of the dates of their admission into the Union.

The equality of the several States of the Union, as near as may be, has always been one of the fundamental principles of our Government to be found running through all the legislation of Congress, especially in reference to the public lands and to their disposition, a principle now so well established and universally recognized by Con-

gress that it intends that each and all of the several public-land States shall be treated alike, and that none thereof shall be discriminated against, or, as was well said by the honorable chairman of this committee, Hon. T. C. McKee, of Arkansas, on August 11, 1894, in his speech delivered on the floor of the House (Congressional Record, August 17, 1894, p. 10076), referring to the equality of all the States of the Union:

"If you name one State, you should name them all; I am opposed to special legislation for one section of the country that does not apply to another."

This bill therefore applies alike to and embraces each and all of the several public-land States; and said accounts are intended to include all public lands.

To further illustrate the equality of legislation by Congress toward the several public-land States of the Union, modified or changed only to meet conditions new or abnormal, and not common to or alike in all the public-land States, a table is submitted herewith showing the general and special (or equivalent) grants, made to the several public-land States and now made a part of the appendix hereto in Exhibit No. 5.

Wherefore the conclusions reached by the Senate Public Lands Committee in reference to a similar bill reported to the Senate on February 7, 1896, in Senate Report No. 226, page 5, Fifty-fourth Congress, first session, are so apposite that it is approvingly quoted as follows:

It would therefore seem to logically, properly, and clearly follow that if Congress, in the exercise of its unquestioned and unquestionable right to dispose of the public lands in any of the public-land States, in a manner so as to include any lands thereof in military or other public reservations, established in any public-land State for the general use and benefit of all the people of all the States of the Union, and thereby excludes such public lands from sale for cash, that the same principle and rule of computation ought to be adopted by Congress to equally and equitably apply to all lands embraced in any public reservation the same as when included and embraced in any Indian reservation.

The foregoing recitals, together with the several exhibits, submitted herewith, would seem to be all that is necessary to be now said by your committee in support of the provisions of section 2 of this substitute bill, except as to so much thereof as relates to sales and location of the public lands made by the United States for military bounty-land warrants and land scrip, and as to these your committee report as follows:

PUBLIC LANDS SOLD, LOCATED, AND DISPOSED OF FOR BOUNTY-LAND WARRANTS.

Prior to March 22, 1852, up to which date all military bounty-land warrants were by law located by the warrantees thereof, and prior to which date they were not legally assignable, the effect upon said 5 per cent cash fund, by virtue of the sale and location of the public lands by military bounty-land warrants, was not fully perceived nor seriously felt by many of the public-land States.

But on March 22, 1852 (10 U. S. Stats., 3), Congress made all bounty-land warrants which theretofore had been, and all which might thereafter be, issued under any law of the United States, not only assignable, but also made equally assignable all valid locations of land which theretofore had been or thereafter might be made with any of said warrants. Not only that, but in its said act, an act entitled "An act to make land warrants assignable, and for other purposes," Congress specially provided "that any person entitled to preemption rights to any lands shall be entitled to use said land warrant in payment for the same at the rate of \$1.25 per acre for the quantity of land therein specified;" and in that same act Congress further provided "that when said warrants shall be located on lands which are subject to entry at a greater minimum than \$1.25 per acre, the locator of said warrant shall

pay to the United States in cash the difference between the value of such warrant at \$1.25 per acre and the tract of land located on."

On March 3, 1855 (10 U. S. Stats., 701), Congress passed an act entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who had been engaged in the military service of the United States." The issue of land warrants under this last act has substantially equaled in acreage the total acreage represented by all military bounty-land warrants issued under all the other acts of Congress enacted prior to March 3, 1855. Because of the fact that under said act of March 22, 1852, all military bounty-land warrants had been made negotiable, assignable, and receivable in payment of public lands the same as cash, and because, further, of the fixed money value of \$1.25 per acre so given them by Congress in said act, said military bounty-land warrants became, were, and still continue to be a land office currency and a legal tender for paying for any public lands situate anywhere in the United States, subject to sale for cash, or enterable under the preemption and commuted homestead laws of the United States.

To the extent of their issue, military bounty-land warrants have displaced all other kinds of money theretofore used in payment for the public lands, and became, and in fact are, preferable to other kinds of currency, and cheaper than money, because they were and are sold for less than \$1.25 per acre, and pro tanto, they diminish the sales of the public lands for cash in all the public land States, and pro tanto diminish the 5 per cent fund, in money, in every public-land State in which they have been located.

By these acts of Congress which fixed the legal value of land warrants at \$1.25 per acre and made them assignable, negotiable, and receivable and received in payment for public lands the same as cash, Congress in effect did agree to redeem, and in fact has redeemed, the same at said legal value of \$1.25 per acre, and thereby has in fact liquidated the national debts, pro tanto, by said warrants in lieu of money, and to the financial detriment of all of the public-land States in which the public lands were so disposed of for military bounty-land warrants.

Bounty-land warrants, like Indian reservations, have also been located in nearly all of the public-land States, but not equally and alike, as to area, in any thereof, but, on the contrary, said locations have been very unequal in area, because large areas have been located therewith in some public-land States, while small areas only have been located therewith in other public-land States.

The effect, therefore, of such unequal acreage in the location of the public lands with military bounty-land warrants in the several public-land States has been and is that those public-land States in which were located the maximum acreage of the public lands, with military bounty-land warrants, have received the minimum amount of money and per contra those public-land States in which were located the minimum acreage of the public lands with military bounty-land warrants, have received the maximum amount in money, on account of said 5 per cent grant, according and in proportion to the respective areas of the several public-land States.

A result like this surely is not equitable, and Congress certainly, with a full knowledge of such facts and of such results, can not intend to permit a system of administration of law to continue so inequitable to the several public-land States as this has been found and is now declared by your committee to be.

In view of the concessions made by each of the public-land States to

the United States in consideration of and as an equivalent for the 5 per cent grant made them by Congress, equity and fair dealing alike suggest that when the accounts between the several public land States and the United States for this 5 per cent grant are officially stated and properly certified for payment, that they should include and apply equally to all dispositions of lands sold, not only for cash, but also to those disposed of for bounty-land warrants.

PUBLIC LANDS SOLD, LOCATED, AND DISPOSED OF FOR LAND SCRIP.

So, too, in the matter of land scrip, in relation to which Congress, in its several acts authorizing its issue, has made all thereof, except Indian scrip, assignable, negotiable, and receivable in payment for the public lands, either from the scripees or their assignees, the same as money and has given the same a fixed legal value in money, to wit, \$1.25 per acre, and has constituted such scrip another land-office currency, and a legal tender with which to pay for the public lands just the same as cash.

Your committee, therefore, declare that the same principle and rule of computation, in all equity and fair dealing with the public-land States, should equally apply to all lands disposed of for scrip and military bounty-land warrants just the same as the public lands disposed of for cash, and that said 5 per cent accounts, when officially stated and properly certified for payment, should also include and apply to all dispositions of lands made for scrip and land warrants at their legal value, fixed by Congress at \$1.25 per acre, and that said 5 per cent should be computed thereon.

This 5 per cent computation has been one of constant friction between the United States and the several public-land States of long standing and still exists, and has continued to exist from 1841 till now, increasing in degree and volume ever since the effect of the legislation of Congress making scrip and land warrants assignable, negotiable, and receivable as money has been felt by them, and because making said warrants and scrip a land-office currency and a legal tender in payment of the public lands, the same as cash, has worked a financial injury to them under the 5 per cent compacts.

The effect of said legislation has been felt in some States to a greater degree than in others, but it has been felt in all the public-land States, differing only in degree.

This subject-matter has been brought to the attention of Congress, by petition, by memorial submitted frequently heretofore, and even during this Congress by the legislature of the State of Iowa; and duly laid before this House, and by it duly referred to your committee, and by joint resolutions sent by the public-land States through their State officials, by their duly constituted authorities, by their Senators and Representatives in Congress, by bills and by reports from their proper committees, wherein the reasons have been fully recited and developed why some general legislation should be enacted by Congress whereby to equalize, as near as may be, the several public-land States of the Union in the 5 per cent of the net proceeds of the disposition of the public lands by the United States, whether made for cash, for land warrants, or for scrip, so that the apportionment of money to each thereof on account of said 5 per cent grant shall be in direct proportion to the area of the public lands so disposed of therein, respectively, by the United States for cash, or warrants, or scrip, the latter to be computed at their legal value of \$1.25 per acre, as fixed by Congress.

This subject-matter, while frequently heretofore favorably reported

in both Senate and House from the Public Lands Committee of each, and while heretofore passing the Senate, has never heretofore been acted on by the House, so far as your committee has been enabled to discover; was also duly considered in the Fifty-third Congress, not only by your committee, but also by the Public Lands Committee in the Senate, and reports from each were favorably made to accompany substitute bills proposed by your committee, and also by the Senate Public Lands Committee, for sundry similar bills referred to, each respectively, as evidenced by Senate Report No. 1043, made from the Senate committee to accompany substitute Senate bill 2803, and House Report No. 1522 to accompany substitute House bill 8405, both made during the third session of the Fifty-third Congress, and also by the Senate Committee on the Public Lands in Senate Report No. 226, made to accompany a substantially similar Senate bill, No. 474, Fifty-fourth Congress, first session.

In support of so much of this substitute bill as relates to sales and locations of the public lands for military bounty-land warrants, etc., it would be difficult, if not impossible, to add to the force of the argument so clearly, cogently, and convincingly stated by the present chairman of this committee, Hon. John F. Lacey, in his said House Report No. 1522, subdivision B, in the appendix hereto made by him in support of House bill No. 8405, Fifty-third Congress, third session, wherein he stated as follows:

As each and all of the several public-land States, when admitted into the Union, duly surrendered to the United States similar concessions, so, too, the consideration to them therefor from the United States should be, and has been, intended to be similar equivalents, to be measured and meted out to them respectively in proportion to the area of the public lands in each, and irrespective of the dates of their admission into the Union.

The equality of the several States of the Union, as near as may be, has always been one of the fundamental principles of our Government to be found running through all the legislation of Congress, especially in reference to the public lands and to their disposition, a principle now so well established and universally recognized by Congress that it intends that each and all of the several public-land States shall be treated alike, and that none thereof shall be discriminated against, or, as was well said by the honorable chairman of this committee on August 11, 1894, in his speech delivered on the floor of the House (Congressional Record, August 17, 1894, p. 10076), referring to the equality of all the States of the Union:

"If you name one State, you should name them all; I am opposed to special legislation for one section of the country that does not apply to another."

This bill therefore applies alike to and embraces each and all of the several public-land States; and said accounts are intended to include all public lands therein, and said 5 per cent is to be estimated upon all thereof, whether said lands have been or may be sold for cash, or located with, or sold, or disposed of, for land scrip or certificates or bounty-land warrants.

In view of the fact that all land scrip or certificates issued by the Interior Department have been made assignable and receivable by the United States as, or as equivalent to, so much cash in the disposition of the public lands, whether surrendered therefor by those to whom they were originally issued or by their assignees, there does not seem to exist any valid reason why each and all of the several public-land States should not receive the full benefit of said 5 per cent, based upon these classes of disposition of the public lands, estimated at the same rate at which such scrip or certificates or warrants have been so issued and so received by the United States in full payment thereof, to wit, at a valuation of \$1.25 per acre.

Congress, in authorizing the issuance of said land scrip or certificates or warrants, and in making and declaring all thereof equivalent to and receivable as so much money in the disposition of the public lands, did thereby not only diminish and continues to diminish pro tanto the available area of the public lands to be disposed of for cash, and which otherwise would have been or would be disposed of for cash, and upon which said 5 per cent would have or would be so duly estimated; but in the hands of all holders thereof such land scrip or certificates became property, not only for safe investment, but even for profitable speculation, to an extent such as to render it a financial consideration to any person contemplating locating or purchasing any of the public lands locatable therewith to purchase and use same for

that object, because such certificates or scrip for such land use are made cheaper than money, they being a full legal tender in payment for public lands, and received the same as cash.

A legal wrong and financial loss have therefore been and will continue to be inflicted upon all the public-land States unless said 5 per cent accounts include and be estimated upon these classes of the disposition of the public lands the same as upon actual cash sales.

This bill also applies to and embraces, and said accounts when so stated, certified, and paid are intended to include, all public land located with or disposed of for bounty-land warrants.

This provision of this bill was heretofore brought to the favorable attention of Congress in reports made from the Committees on the Public Lands in both the House and Senate, as recited in House Report No. 707, Forty-fifth Congress, second session, and in Senate Report No. 193, Forty-seventh Congress, first session.

A Senate bill in harmony with the recommendations in said Senate report passed the Senate May 19, 1882, but upon a motion for reconsideration was recalled from the House, and does not seem to have been thereafter acted upon by either the Senate or the House.

Congress, in its act approved March 22, 1852, made all bounty-land warrants receivable from the warrantees as so much money in the location and disposition generally of the public lands subject to location and disposal therewith, and thereafter made the same assignable, and in the hands of such assignees made them also receivable and of the same value for a similar use as when surrendered by the warrantees themselves, to wit, as cash, at \$1.25.

Hence, reasons similar to those hereinbefore recited, why said accounts between the United States and the several public-land States, when so stated, certified, and paid, should include all public lands disposed of by land scrip or certificates, should, in the opinion of your committee, apply equally well to all public lands which heretofore have been, or which hereafter may be, disposed of for bounty-land warrants surrendered in the payment or location thereof.

Attention is called to the fact that the Interior Department, in construing section 3480, United States Revised Statutes, regards and treats all claims for the issuance of bounty-land warrants tantamount to claims for the payment of so much money, and to an extent such that it now refuses to issue bounty-land warrants to any persons by it believed to be under the ban of said section in so far as regards claims for payment of money are concerned, thus treating bounty-land warrants as equivalent to, in fact as so much money.

To remedy complaints made in said matter, this House, on October 17, 1893, passed a bill to repeal in part and to limit said section 3480, by excluding from its provision all matters relating to the issuance of bounty-land warrants.

Your committee concur in the reasons recited, conclusions reached, and recommendations made in House Report No. 1522, from this committee in the Fifty-third Congress, third session, and also those contained in Senate Report No. 1043, Fifty-third Congress, third session, and in Senate Report No. 226, Fifty-fourth Congress, first session; and believing, as your committee do, that this substitute bill provides a remedy adequate for most of the matters heretofore justly complained of by many of the public-land States of the Union, they therefore now recommend that said substitute bill do pass.

APPENDIX TO HOUSE REPORT 996.

EXHIBIT NO. 1.

SUBDIVISION A.

[Senate Report No. 1043, Fifty-third Congress, Third session.]

[In the Senate of the United States. March 2, 1895.—Ordered to be printed.]

Mr. Martin, from the Committee on Public Lands, submitted the following report, to accompany S. 2803, a substitute bill proposed by the committee for the bill S. 2169.

The Committee on Public Lands, to whom was referred the bill (S. 2169) fixing the times when, regulating the manner in which, and declaring the character of the accounts which shall be hereafter stated to the Treasury Department for settlement between the United States and the several public-land States relative to the net proceeds of the sales of the public lands, and to be made therein by the United States, and for other purposes, have had the same under consideration, and submit the following report:

* * * * *

One of the most important measures respecting the public lands was enacted June 23, 1836, first session of the Twenty-fourth Congress (U. S. Stats., ch. 115, p. 55). Under the provisions of this act the proceeds of the sale of the public lands in the Treasury at that time, amounting to \$28,101,644.91, were distributed among the States under the pretense of a loan. No part of it has ever been returned to the United States and never will be. * * * The interest upon these several amounts, at the rate of 6 per cent per annum from the date of distribution to the present, would aggregate an enormous sum of money; and, undoubtedly, the States receiving the benefits of this distribution would regard it as a great hardship and injustice if they were now called upon to pay this debt or return the money with reasonable interest to the Government. As a matter of course, the repayment of the money will never occur, and it was never intended that it should. * * *

Under various acts of Congress a large amount of the public lands has been granted to many of the States for educational and other like purposes, exclusive of railroad grants. * * *

In addition to the foregoing grants and distribution of moneys there has been paid to a number of the States an amount aggregating nearly \$10,000,000 under the several acts of Congress granting to the States 5 per cent of the net proceeds from the sales of the public lands therein respectively. * * *

The first section of the bill under consideration provides in substance that from and after the passage of this act the Commissioner of the General Land Office shall, under the supervision and direction of the Secretary of the Interior, state to the Treasury Department an account between the United States and each of the several public-land States, respectively, for 5 per cent of the net proceeds of the cash sales of the public lands in said States which may have been theretofore made therein, and that in all cases where these amounts have not been paid or otherwise adjusted by the Treasury Department that the Secretary of the Treasury shall pay said States the sums of money shown by said statement to be due to them respectively.

The second section of the bill provides that in stating and adjusting said accounts the Commissioner of the General Land Office and the Secretary of the Interior shall include and embrace 5 per cent of all former and present Indian and half-breed Indian reservations in said States; also all the land sold or located with bounty-land warrants, or with scrip of any kind, including United States Treasury certificates of deposit; also to all the lands granted to Indians in severalty which are exempt from taxation, rating the value of said lands at \$1.20 per acre. The bill further provides that upon such adjustment the amount found to be due each State respectively shall be paid to said States in cash, or if the Secretary of the Treasury deem it expedient he may issue to the States in payment thereof bonds of the United States in the denomination of not less than \$50 each, payable or redeemable by the United States at the end of five years from the date of the approval of this act at the discretion of the Secretary of the Treasury. * * *

The provisions of this bill would apply to the following-named States: Alabama, Arkansas, California, Colorado, Florida, Idaho, Iowa, Illinois, Indiana, Kansas, Louisiana, Missouri, Mississippi, Michigan, Minnesota, Montana, Nebraska, Nevada, Ohio, Oregon, Washington, Wisconsin, and Wyoming, and, without discrimination of any kind, places each and all of the public-land States upon an equal footing and upon the same plane as regards the 5 per cent of the net proceeds of the cash sales of the public lands made by the United States in each thereof, respectively.

While not disturbing any past adjustment of any of said accounts and settlements it contemplates rendering all the public-land States of the Union as nearly equal in all respects as possible, as all thereof were admitted and are now in the Union, not on a footing of difference, but one of perfect equality with each other so far as the 5 per cent grant or claim is concerned, wherein each of said States surrendered to the United States similar concessions in consideration of similar equivalents to be measured to them by the United States irrespective of the area of said public-land States or of the dates of their admission, respectively, into the Union.

The second section of this bill provides that when the said accounts of sales of the public lands are so stated and settled they shall include all lands in former and in present Indian and half-breed Indian reservations, and also lands granted or allotted to Indians, exempt from taxation, to be estimated at \$1.25 per acre.

This provision of this bill is in accord with settled legislative precedents adopted and adhered to by Congress in the case of every other public-land State admitted into the Union prior to March 3, 1857.

It makes no concession other than or different from that made by Congress to every other public-land State admitted into the Union prior to March 3, 1857, but simply places all other public-land States upon an equal footing and upon the same plane in regard to existing laws that are and were intended to be applicable to each and all of the public-land States which were in the Union on March 3, 1857.

The act of March 2, 1855 (10 Stat. L., 630), required the Commissioner of the General Land Office to include in a statement of the 5 per cent due to the State of Alabama "the several reservations under the various treaties with the Chickasaw, Choctaw, and Creek Indians within the limits of Alabama, and allow and pay to the said State 5 per cent thereon, as in case of other sales."

The act of March 3, 1857 (11 Stat. L., 200), in its first section required the Commissioner of the General Land Office to state an account between the United States and Mississippi upon the same principles of allowance and settlement as provided in the Alabama act of March 3, 1855, and to include in said account "the several reservations under the various treaties with the Chickasaw and Choctaw Indians within the limits of Mississippi, and allow and pay to the said States 5 per cent thereon, as in case of other sales, estimating the lands at the value of \$1.25 per acre," and in its second section extended the same principle of settlement to the other States, and provided for estimating all lands and permanent reservations at \$1.25 per acre.

The provisions of the said act of 1857 were carried into effect as regards all the public-land States then in the Union wherein Indian reservations existed, except California, which State is now fully provided for in this bill.

With regard to the public-land States admitted into the Union since March 3, 1857, it has been held by the executive officers of the United States that the provisions of said act are not applicable to them. The equality of the several States has always been and is a fundamental principle of our Government, to be found running through all the legislation of Congress, and in reference to the subject of the public lands and of grants of lands and of the net proceeds of the sales thereof to the public-land States, the principle is now well established that all the public-land States shall be treated alike, and that none thereof shall be discriminated against. One of the objects of this bill is to declare in effect that the purposes of said act of March 3, 1857 (11 U. S. Stats., 200), shall be made applicable to the State of California and to all the public-land States admitted into the Union subsequent to March 3, 1857, namely: Minnesota, Oregon, Kansas, Nebraska, Nevada, Colorado, South Dakota, North Dakota, Washington, Montana, Idaho, and Wyoming, the same as it applied to all the public-land States admitted into the Union previous to March 3, 1857.

The ownership of the lands constituting the public domain, embraced in cessions from Great Britain, France, Spain, and Mexico, and from certain individual States of the Union, were originally regarded as property to be disposed of for the common benefit of the States, and when the States within the limits of which the lands were situated were admitted into the Union, there were stipulations made in the acts of admission which were obligatory as contracts on the part of the several States and the United States, among which the grant of the 5 per cent was included.

This grant was for 5 per cent of the net proceeds of the sales of the public lands. At the foundation of this grant was the then established understanding that the lands were to be disposed of for the benefit of the common treasury, and the stipulation for 5 per cent of the proceeds as originally understood amounted to a grant of that percentage of the net proceeds of the sales of all the public lands, at such

price as they would bring when so disposed of. This understanding was adhered to, substantially, with regard to the great bulk of the lands during the earlier portion of the history of the country, and the older States had the benefit thereof; but it has since been departed from, and in view of the repeal of the general laws for the sale of the public lands, it is apparent that the States in which the lands lie will hereafter realize but little, if any, benefit from the 5 per cent grant for which the United States stipulated when they entered the Union, and in consideration of which the States renounced all right to tax the public domain, and bound themselves not to interfere with the primary disposal of the soil by the Federal Government.

But little land now remains subject to sale beyond what is embraced in the Indian reservations, the remainder of the public lands being, under the now established policy, set aside for the homes for the people, without price, and with no payment but nominal fees. From the foregoing considerations it appears only equitable and just that the newer States admitted into the Union since the 3d of March, 1857, should receive the benefit of the same principles that were applied in favor of the older States, previously admitted, in the adjustment of their claims under their 5 per cent grant, under the act of that date, so far as Indian lands and lands in Indian reservations were and are concerned.

In the laws heretofore enacted on the subject there is none that prescribes a rule for determining precisely what expenses are to be deducted from the gross receipts in ascertaining the net proceeds from the sales of the public lands, but this has been left to the varying opinions of the executive officers. But if the method heretofore obtaining of deducting all the expenses of making surveys, sustaining district land offices, the General Land Office, and the Interior Department, rendered necessary for carrying out the land laws generally, from the gross proceeds of the sales, should be continued in determining the net proceeds under this act, the aggregate thereof might absorb the total proceeds of such sales, or at least leave very little from which the State could realize its 5 per cent. It is due, therefore, to the States to be affected by this legislation that the Senate consider whether they should be compelled to bear more than their share of the expenses, to be proportioned to the total expenses as is the number of acres sold, from which the gross proceeds arise, to the total number of acres disposed of in all the prescribed methods during the period for which the account is made up, and for which the total expenses are incurred, taking into the account the fact of the greater expenses incurred per acre in making disposals under the settlement laws, in comparison with the amount of money produced, than in cash sales.

The second section of this bill further provides that said accounts shall also include all lands sold for or located with scrip of any kind, including United States Treasury certificates of deposit, estimating the same at \$1.25 per acre.

In view of the fact that all kinds of land scrip (except Indian half-breed scrip) heretofore issued by authority of Congress, including United States Treasury certificates of deposits issued under the authority of sections 2401, 2403, United States Revised Statutes, and amendments thereto, have been, by law, made assignable and receivable from the assignees, as so much cash in payment of public lands, there does not seem to exist any valid reason why the public-land States should not receive the full benefit of their 5 per cent arising under and from these classes of land sales, estimating all thereof at the rate of \$1.25 per acre.

Congress, by authorizing the issuing of said scrip and United States Treasury certificates of deposits, and making same equivalent to cash in the location and sale of the public lands, not only thereby diminished, and continues to diminish, pro tanto, the area of said lands which otherwise would be sold for cash, but in the hands of assignees said scrip and certificates become matters of speculation to an extent such as to make them profitable investments and a consideration to the locators or purchasers of public lands, by inducing them to buy and use such scrip and certificates in preference to money, because such scrip and certificates for such use are made cheaper to them than money itself, they being legal land-office money. It would inflict a legal wrong and a financial loss upon all the public-land States, unless their 5 per cent included or was estimated upon these classes of sales and locations of lands, all of which, in the opinion of your committee, was intended by Congress in its legislation in these premises.

The second section of this bill further provides that said accounts, when so stated, shall also include lands sold for or located with bounty-land warrants of all kinds.

This particular feature of this bill was heretofore brought to the attention of Congress in favorable reports made from this committee, and a bill including same passed the Senate on May 19, 1882, but upon a motion for reconsideration was recalled from the House, and does not seem to have been thereafter acted upon by the Senate.

In addition to the matters set forth in the reports, as follows, to wit, Senate Report No. 121, Forty-sixth Congress, second session; Senate Report No. 193, Forty-seventh Congress, first session; Senate Report No. 775, Fifty-second Congress, first session; House Report, No. 707, Forty-fifth Congress, second session; which reports 193, 775, and 707 are made parts of the appendix hereto (reports Nos. 121 and 193 being iden-

tical in character), attention is called to the fact that Congress (acts August 14, 1848, and March 22, 1852) made all bounty-land warrants assignable and receivable as so much cash in the hands of assignees and warrantees in the payment for public lands, and hence reasons similar to those hereinbefore recited as to sales and locations of public lands by scrip and certificates received in payment thereof should, in the opinion of your committee, apply equally to sales and locations of public lands made by land warrants of all kinds.

Attention is also called to the fact that the Interior Department, construing section 3480, United States Revised Statutes, regards and treats bounty-land warrants as so much cash, or as equivalent to cash or money, to an extent such that it now fails and refuses to issue bounty-land warrants to any persons by it believed to be under the ban of said section.

To remedy this matter the present House of Representatives, on October 17, 1893, passed an act to repeal in part and limit said section 3480 in so far as military bounty-land warrants are concerned; copy of said act as same passed the House appears in the appendix hereto.

Your committee has carefully considered the "5 per cent cases" reported in 110 United States, 471, brought by the States of Iowa and Illinois in the United States Supreme Court by petition for a writ of mandamus, and decided March 3, 1884, by a divided court; and also the case of the State of Indiana *v.* The United States (148 U. S., 148), decided December 13, 1893, and find nothing existing in the opinion and dissenting opinion of said court therein constituting the obstacles to legislation proposed and contemplated by this bill.

The proviso to the second section of the bill recites an alternative method of payment by the Secretary of the Treasury to the several public-land States of the sums of money which may be found due them under the accounts to be stated to his Department by the Department of the Interior.

Your committee is, however, of the opinion that a wise and wholesome policy would extend the provisions of this bill to every class of public lands in the State hereinafter mentioned; and in order to meet the case fully your committee have deemed it wise and proper, and submit a substitute for Senate bill 2169, and also omit the provision of the bill authorizing the Secretary of the Treasury to issue bonds of the United States in payment for the amount found to be due.

The first section of the substitute provides that upon the passage of this act, and thereafter in the first month of each fiscal year, the Commissioner of the General Land Office is directed to make and submit to the Secretary of the Interior a statement of the account between the United States and each of the public-land States for 5 per cent of the net proceeds of the sale of public land in each of said States which have been heretofore made with the United States and not already paid, and upon such statement of account being submitted to the Secretary of the Interior, he shall thereupon supervise and correct and certify such statement to the Secretary of the Treasury for payment.

The second section of the bill provides that said accounts shall include and apply to all of said lands heretofore or which may hereafter be sold, located, or disposed of by the United States for cash or bounty-land warrants, or land scrip, or certificates of any kind, of agricultural college scrip, to all lands allotted to Indians in severalty and exempt from taxation, and shall include all former and existing Indian, military, or other reservations in said States, estimating the value of such lands at \$1.25 per acre.

The third section of the bill provides simply that upon such accounts being duly certified by the Secretary of the Interior with the Secretary of the Treasury, the said Secretary of the Treasury shall thereupon, out of any money in the Treasury not otherwise appropriated, pay to said States, respectively, the amounts so found to be due and certified as aforesaid.

SUBDIVISION B.

[House Report No. 1522, Fifty-third Congress, third session.]

The Committee on the Public Lands, to whom was referred the bills (H. R. 7650 and H. R. 7327) for fixing the times when, regulating the manner in which, and declaring the character of the accounts which shall be hereafter stated to the Treasury Department for settlement between the United States and the several public-land States relative to the net proceeds of the sales of the public lands made and to be made therein by the United States, and for other purposes, having had the same under consideration, do now report it back with a substitute therefor, with the recommendation that the substitute do pass, and submit a report thereon as follows:

This bill, as reported, fixes a definite time when, establishes a uniform manner in which, and the names of the officers by whom it is made mandatory to hereafter state,

supervise, certify, and pay all accounts between the United States and each of the several public-land States in reference to the sales and other disposition of the public lands, situate therein respectively, by providing that all of said accounts shall be stated by the Commissioner of the General Land Office to the Secretary of the Interior, who shall thereupon supervise and certify the same to the Secretary of the Treasury for payment.

While this bill does not in anywise disturb any past adjustment or former settlement of any of said accounts between the United States and any of said States, it recognizes the fact that each and all of the several public-land States are in the Union upon one and the same plane, as each and all of said States were admitted into the Union on a footing, not of difference, but on one of absolute and perfect equality, the one with the other.

As each and all of the several public-land States, when admitted into the Union, duly surrendered to the United States similar concessions, so, too, the consideration to them therefor from the United States should be, and has been, intended to be similar equivalents, to be measured and meted out to them respectively and in proportion to the area of the public lands in each and irrespective of the dates of their admission into the Union.

The equality of the several States of the Union, as near as may be, has always been one of the fundamental principles of our Government to be found running through all the legislation of Congress, especially in reference to the public lands and to their disposition, a principle now so well established and universally recognized by Congress that it intends that each and all of the several public-land States shall be treated alike, and that none thereof shall be discriminated against, or, as was well said by the honorable chairman of this committee on August 11, 1894, in his speech delivered on the floor of the House (Congressional Record, August 17, 1894, p. 10076), referring to the equality of all the States in the Union:

"If you name one State you should name them all; I am opposed to special legislation for one section of the country that does not apply to another."

This bill therefore applies alike to and embraces each and all of the several public-land States; and said accounts are intended to include all public lands therein, and said 5 per cent is to be estimated upon all thereof, whether said lands have been or may be sold for cash, or located with, or sold, or disposed of, for land scrip or certificates or bounty-land warrants.

In view of the fact that all land scrip or certificates issued by the Interior Department have been made assignable and receivable by the United States as, or as equivalent to, so much cash in the disposition of the public lands, whether surrendered therefor by those to whom they were originally issued or by their assignees, there does not seem to exist any valid reason why each and all of the several public-land States should not receive the full benefit of said 5 per cent, based upon these classes of disposition of the public lands, estimated at the same rate at which such scrip or certificates or warrants have been so issued and so received by the United States in full payment thereof, to wit, at a valuation of \$1.25 per acre.

Congress, in authorizing the issuance of said land scrip or certificates or warrants, and in making and declaring all thereof equivalent to and receivable as so much money in the disposition of the public lands, did thereby not only diminish and continue to diminish pro tanto the available area of the public lands to be disposed of for cash, and which otherwise would have been or would be disposed of for cash, and upon which said 5 per cent would have or would be so duly estimated; but in the hands of all holders thereof such land scrip or certificates became property, not only for safe investment, but even for profitable speculation, to an extent such as to render it a financial consideration to any person contemplating locating or purchasing any of the public lands locatable therewith to purchase and use same for that object, because such certificates or scrip for such land use are made cheaper than money, they being a full legal tender in payment for public lands, and received the same as cash.

A legal wrong and financial loss have therefore been and will continue to be inflicted upon all the public-land States unless said 5 per cent accounts include and be estimated upon these classes of the disposition of the public lands the same as upon actual cash sales.

This bill also applies to and embraces, and said accounts when so stated, certified, and paid are intended to include, all public lands located with or disposed of for bounty-land warrants.

This provision of this bill was heretofore brought to the favorable attention of Congress in reports made from the Committees on the Public Lands in both the House and Senate, as recited in the House Report No. 707, Forty-fifth Congress, second session, and in Senate Report No. 193, Forty-seventh Congress, first session, copies whereof are submitted herewith in an appendix hereto.

A Senate bill in harmony with the recommendations in said Senate report passed the Senate May 19, 1882, but upon a motion for reconsideration was recalled from the

House, and does not seem to have been thereafter acted upon by either the Senate or the House.

Congress in its acts approved August 14, 1848, and March 22, 1852, made all bounty-land warrants receivable from the warrantees as so much money in the location and disposition generally of the public lands subject to location and disposal therewith, and thereafter made the same assignable, and in the hands of such assignees made them also receivable and of the same value for a similar use as when surrendered by the warrantees themselves, to wit, as cash, at \$1.25.

Hence, reasons similar to those hereinbefore recited why said accounts between the United States and the several public-land States, when so stated, certified, and paid, should include all public lands disposed of by land scrip or certificates, should, in the opinion of your committee, apply equally well to all public lands which heretofore have been, or which hereafter may be, disposed of for bounty-land warrants surrendered in the payment or location thereof.

Attention is called to the fact that the Interior Department, in construing section 3480, United States Revised Statutes, regards and treats all claims for the issuance of bounty-land warrants tantamount to claims for the payment of so much money, and to an extent such that it now refuses to issue bounty-land warrants to any persons by it believed to be under the ban of said section in so far as regards claims for payment of money are concerned, thus treating bounty-land warrants as equivalent to, in fact as so much money.

To remedy complaints made in said matter this House, on October 17, 1893, passed a bill to repeal in part and to limit said section 3480, by excluding from its provision all matters relating to the issuance of bounty-land warrants.

Copy of said bill H. R. 3130, Fifty-third Congress, second session, is attached to the appendix hereto. We also attach in the appendix copies of reports and laws bearing on the subject of this report.

In the appendix we also embrace the acts of admission of the various public-land States in which a provision of exemption from taxation of public lands is provided for, and the exemption extends from three to five years after the lands have been patented by the Government. This surrender of local taxation in most States would equal the 5 per cent of the entry value of the land, and forms a full consideration for the payment of the 5 per cent fund.

Your committee has carefully considered the "5 per cent cases," reported in 110 United States Reports, page 471, brought in the United States Supreme Court by the petitions of the States of Iowa and Illinois for writs of mandamus, etc., and decided by a divided court on March 3, 1884; and also the case of the State of Indiana *v.* The United States (148 U. S. Reports, p. 148), decided December 13, 1893, but do not find anything existing in the opinion of said court in either of said cases constituting obstacles to the enactment of the legislation contemplated by this substitute bill, which your committee recommend do pass, and that the title thereof shall read as therein set forth, and that H. R. 7327 and H. R. 7650 be laid upon the table.

SUBDIVISION C.

[House Report No. 345, Forty-seventh Congress, first session.]

The Committee on Public Lands, to whom was referred the bill H. R. 277, having had the same under consideration, make the following report:

This bill was very fully considered by this committee during the Forty-sixth Congress, and was made the subject of an able report to the House recommending its passage, which report is adopted, with slight modifications, by this committee, as follows:

The bill provides for the payment by the General Government to the States of Ohio, Indiana, Illinois, Missouri, Michigan, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Arkansas, Louisiana, Alabama, Mississippi, Florida, Oregon, Nevada, and Colorado, 5 per cent on the military locations of lands therein, estimating the same at \$1.25 per acre. Heretofore the 5 per cent upon this class of lands has been withheld as not falling within the purview and intent of the stipulations contained in the several acts admitting these States into the Union, to the effect that the General Government would pay the percentages in question on the proceeds of the sales of the public lands for and on account of certain designated conditions therein specified, which were to be binding upon and observed by the States as members of the Union. The nature of these considerations may be stated, summarily, to be a concession not to tax the public lands; not to tax private lands for the space of five years after date of entry in some seven of these States; in others not to tax lands granted for military services in the war of 1812 for three years from date of patent; not to interfere with the primary disposal of the soil, nor to tax the nonresident proprietor more than the resident, etc.

This compact, made at the time these States were admitted into the Union, has been observed and kept on their part in good faith, and they claim the observance of like good faith on the part of the General Government in fulfilling part of the contract—namely, the payment of the 5 per cent, being the stipulated consideration that induced the States to enter into and perform their part of the contract. That the Government has done so on all sales of public lands for cash is not disputed. But the nonpayment of the 5 per cent on all lands upon which military land warrants have been located is not denied, and it is claimed that the Government is under no obligations to pay the same, it being insisted upon that the lands so taken up do not fall within the compact, while the States interested maintain that the Government is obliged to pay this 5 per cent on all lands on which these military warrants have been located, and the bill under consideration is for the purpose of requiring such payment to be made. It has been contended that the 5 per cent to be paid to these States has reference to cash sales of the public lands, and none other. The States interested maintain that this is not a sound interpretation of the obligations assumed by the Government, and some of the reasons for this claim will be stated.

The several grants of land for military services rendered in the three great wars of this country, namely, the Revolutionary war, the war of 1812, and the Mexican war, were not bounties, merely; they were not mere gratuities given by the Government out of a spirit of generosity to the soldiers who served in these wars; they were not granted or received in this spirit, but were, by the very terms of most of the acts authorizing the same, given in part payment for military services. They entered into and formed a part of the contract of enlistment. The object of these grants was to facilitate and encourage enlistments. In order to fill up the rank and file of the Army rapidly Congress offered in advance, besides specified monthly wages in money, an additional inducement or consideration in lands—not for past services, but for services thereafter to be rendered. The land warrant to be received was as much a part of the stipulated compensation provided for by the law under which the enlistment was made and entered into the contract just as fully between the soldier and the Government as his monthly pay did. If these grants had all been made after the rendition of the military services it might be otherwise; but they were not. They were offered as a part of the compensation that would be paid for such services. Whatever differences of opinion exist as to whether these grants were sales or not may, to a great extent, be attributed to a misunderstanding of the term "bounty," as applied to this kind of reward for military services. It is not used in its popular sense as importing a gratuity, but in the technical sense of a gross sum or quantity, given in addition to the monthly stipend, but given like the latter in consideration of and as payment for services to be rendered. Thus in the late war, in order to stimulate enlistments, a pecuniary "bounty"—that is, a gross sum in addition to the monthly wages—was offered by the Government to all who would enlist in the military service; and in numerous instances further bounties of the same kind were offered and paid by counties and cities in order to induce enlistments to fill up their respective quotas of men.

Such offers, when accepted and acted upon, so completely constituted contracts with the parties enlisting under them that in repeated instances fulfillment thereof has been enforced by the courts. These pecuniary "bounties," by which enlistments were so largely procured during the late rebellion, occupy precisely the same attitude as respects the question now under consideration as the so-called bounty-land warrants do. Both really were simply extra allowances offered for the same purpose, and when accepted and enlistments made thereunder they became ipso facto contracts which any court would recognize and enforce. In this way the public lands were made available as a resource for defraying the national burdens just as effectually as if they had been converted into money and the money used in paying the enlisted men. It was an exchange of one valuable thing for another, which in law makes it a case of sale, to constitute which it is enough that the title to property is parted with for a valuable consideration. It is not necessary that there be a moneyed consideration in order to constitute a sale. Any other valuable consideration will be as effectual in supporting a contract and in making a sale which will pass the title, whether it be merchandise, other property, or services. Suppose one man employs another to work for a given period of time, under an agreement to pay him monthly wages at a given price per month and 40 acres of land, to be conveyed when the period of service expires, it must be conceded that when the services are rendered the party would be as much entitled to the land as he would be to the stipulated sum per month, and this would as clearly be a sale of the land as if the consideration therefor had been money. The principle involved in the case supposed is precisely the same as in the one under consideration. And if it is a sale in the one case it is difficult to see why it would not be in the other. But let us examine this character or mode of disposing of lands by the United States, as constituting a "sale," when it is viewed as a transaction between the Government and the party locating the warrant. Instead of patenting specific land to the soldier entitled

thereto, in virtue of his military services, the Government issued to him its written obligation, payable in the agreed quantity of land, to be selected by him from the whole body of lands open for sale and entry throughout the country. These obligations, or "warrants," were made assignable by law, and subject to sale and transfer in the market, from hand to hand, by mere delivery. In this way they became practically a species of Government scrip or currency, and persons desirous of becoming land proprietors could and did go into the market and purchase the same, and with them buy the land they wanted; and in this way large quantities of the public lands were disposed of wherever the same was subject to sale and entry at the different land offices. Now, it is claimed to be against reason and common usage to say that these lands are not sold because the Government receives in payment for them, instead of cash, its own obligations, payable in land. Can it be considered less a case of sale that the purchaser, instead of paying for his land in greenbacks, does so with the Government's own paper obligations?

The chief difference in the two descriptions of paper is that the first is available for purchasing all commodities, indiscriminately, while the latter is limited to purchase of land only. Suppose the United States had issued pecuniary obligations, i. e., bonds payable to bearer at a future day, or payable, like greenbacks, whenever the Government should find itself able, but with the proviso that they should be receivable at par in payment for public lands, how would the case of lands paid for with such bonds differ from the present case? The bonds might have been issued like land warrants, for military services, or for any other consideration, or for no consideration. They might have been regarded by Congress strictly as a gratuity to parties thought to have, for any reason, deserved well of their country. The motive or consideration that induced or authorized the issuing of the same would not affect the question whether lands entered and paid for with such bonds ought to be considered as sold or not. In both cases the Government would have received in such disposition of its lands its own valid outstanding obligations, for the fulfillment of which its faith was pledged, and the surrender of which by the holder would constitute an ample consideration, both legal and equitable, for the conveyance. These considerations apply to the fullest extent to the case of entries of land by means of land warrants, for it is immaterial to the character of this transaction for what consideration such obligation was issued. Its legal capability of assignment has practically imparted to the land warrant a negotiable quality. It has become part of the general mass of securities passing from hand to hand in the market. The purchaser buys it relying on the faith of the United States for the fulfillment of the agreement embodied in it, and without inquiry as to the consideration in which it originated. In this connection it is proper to state that Congress has treated these warrants for military services as money, both by receiving them in payment for large tracts of land or by authorizing their conversion into scrip, and then receiving this scrip in payment for any public land, wherever situate. This scrip, so issued in lieu of land warrants or in redemption of the same, has always been treated as money by the Government. It has always been received in payment for land just the same as money, and when lands have been taken up by this scrip, representing the land warrants, the Government has paid the 5 per cent to the States where it was situate, while the per cent has been withheld where the land has been taken up by the warrants themselves. We think no good reason can be assigned for this distinction. The land absorbed by either class of paper is precisely the same in effect, so far as the Government is concerned, and both alike discharge its obligations, and for that very reason the land so absorbed by both classes of paper should be treated as having been sold.

It may not be inappropriate to state in this connection that in March, 1855 and 1857, Congress passed acts to settle certain accounts between the United States and the States of Alabama and Mississippi, in which, among other things, the Commissioner of the General Land Office was authorized to allow and pay to said States 5 per cent on the several reservations of land described in the various treaties with Chickasaw, Choctaw, and Creek Indians, as in case of other sales, estimating the lands at the value of \$1.25 per acre.

The settlements authorized and required by these acts between the Government and the States of Alabama and Mississippi, and the payment of the 5 per cent for these reservations, estimating the land at \$1.25 per acre, are a clear recognition of the principle contended for by the States named in the bill under consideration. The fee to the land in these reservations was granted to the Indians, either out of good will and to encourage friendly relations or in part consideration of their possessory right to large tracts of this country surrendered to Government. It was no cash sale of the lands to the Indians. So the military land warrants were granted to the soldiers, either as a grateful acknowledgment of their services or in part payment of the same; and whether one or the other, the two cases are the same in principle, and the 5 per cent should be paid in both cases alike.

It is further insisted by these States that if the General Government is not obligated to pay the 5 per cent on the lands in dispute by the terms of the contract with

these States, fairly construed, it would be within the power of the Government to convey all the public lands in any State for military services, and in that way defeat any benefit they were to derive under the contract. It is claimed by these States that as they were to have 5 per cent of the proceeds of the sales of public lands they were to be disposed of only in such manner as would enable them to get this sum therefrom, and that any other disposition of these lands defeats the consideration that induced them to enter into the stipulations provided for on their part. We think there are strong reasons for this position, and that the Government in all justice can not dispose of the public lands in these States for military services and then refuse to pay to them the per cent provided for by the compact. Suppose that A agrees with B that he will pay him a commission of 5 per cent for selling a section of land at a given price, and after making this agreement he directs B to take a given quantity of merchandise for the same, which B does, can there be any doubt that B is entitled to the commission agreed upon for making the sale because the mode of paying for the same is changed by A from cash to merchandise? And if not, is not the Government as much bound under its contract with these States to pay the 5 per cent agreed upon where the land is given for and in consideration of military services as it would be if the sale had been for cash? In other words, the contract presupposes that all the public lands will be so sold and disposed of that the States will realize the per cent agreed upon; and that no disposition of them to be made in such manner as to defeat the same was contemplated at the time, and that such is the implication arising from the contract itself. It could not have been within the contemplation of the parties that Congress might defeat the payment of the 5 per cent by some other disposition of the public lands than a sale of the same for cash, for if it had been this privilege would have been reserved; and it is clearly evident no right whatever was reserved to make any disposition of the same that would relinquish the payment of this 5 per cent. Such being the contract, what is the duty of Congress in respect to this claim made by these States? On this subject Chancellor Kent says:

"That a law embodying a contract duly passed and promulgated thenceforward becomes the law of the land, and that is as binding upon Congress as upon the people, or any other branch of the Government, or as any other contract would be binding upon the Government executed under the authority of law."

The obligations imposed upon these States were onerous. The loss of revenue in not being allowed to exercise the power of taxation, as above referred to, would in a number of the States exceed in value the amount that will be gained by them if the 5 per cent is paid on all public lands, including cash sales and those exchanged for military services. After careful consideration and much deliberation your committee have reached the following conclusion:

First. That the several enabling acts admitting the new States into the Union, as it respects the payment of 5 per cent on the sales of the public lands, do embody the elements of a legal and binding contract between said States and the National Government, which both parties are entitled to have carried into effect in the same manner and on the same principles as contracts are between individuals.

Second. That the agreement to pay the 5 per cent has a sufficient consideration in the concessions made by these States in the acts of admission into the Union, in the surrender of revenue, and otherwise, and that it was not within the contemplation of the parties that Congress might defeat the rights of States to the 5 per cent on sales by adopting a policy of disposing of the public lands in some other form than for money, and as a matter of fact the Government did not reserve the right to give away the public lands for objects and uses outside of the States, or to withhold the payment of the 5 per cent on lands granted for military purposes; and, third, that the several grants of lands for military services rendered in the three great wars of this country, namely, the Revolutionary war, the war of 1812, and the Mexican war, were sales in the sense of the law and the meaning of the compact between these States and the National Government.

Your committee feel the more strongly inclined to recommend the passage of this bill from the fact that in nearly all the States the revenue arising from this source has been set apart for educational purposes, in which the nation and the States are alike interested.

Your committee further recommend that the title of said bill (H. R. 277) be amended by inserting after the word "therein" the following words: "and directing the payment of 5 per cent thereon."

SUBDIVISION D.

[Senate Report No. 193, Forty-seventh Congress, first session.]

The Committee on Public Lands, to whom was referred bill S. 67, report as follows: The Government of the United States, in receiving the Western and Southern States

into the Union, stipulated in their several acts of admission to pay them 5 per cent upon the sales of the public lands situated therein. The consideration for the 5 per cent so reserved is substantially the same in each of the enabling acts of said States; that is to say, Ohio and Indiana stipulate that the public lands therein shall remain exempt from all tax whatever for the term of five years from date of sale.

Iowa, in the compact, stipulates four things:

- (1) That she will not interfere with the primary disposal of the soil.
- (2) Nor tax for any purpose the public lands.
- (3) That the nonresident proprietors shall not be taxed more than the resident; and
- (4) That lands granted for military services in the war of 1812 that may be located therein shall not be taxed for three years from date of patent.

Illinois—same as Ohio, and the third and fourth stipulations of the Iowa compact.

Alabama and Mississippi—same as Ohio, and embracing the second and third stipulations of Iowa.

Missouri—same as Ohio, and including that of Iowa.

Michigan and Arkansas—same as Iowa.

Florida—same as the first and second stipulations of Iowa.

Wisconsin, Minnesota, and Oregon—same as the first three stipulations of Iowa.

Nebraska and Nevada—same as the second and third stipulations of Iowa.

Kansas—the same as the first and second of Iowa.

Louisiana—the same as Ohio and Indiana.

These stipulations were proposed to the people of the several States by Congress as the condition of Union, for their "free acceptance or rejection," and, if accepted, were to be obligatory on both parties thereto. They were duly accepted by the States, which have also faithfully observed them.

The binding effect of these compacts is specifically recognized and set forth in an opinion rendered by Hon. B. F. Butler, then Attorney-General of the United States, dated March 31, 1836, in passing upon the legal effect of the act for the admission of Alabama into the Union, as follows:

"This proposition, having been accepted by the convention, became and is obligatory on the United States; that is to say, the faith of the nation is pledged to execute it literally, provided the Government of the United States possesses or acquires the ability to do so. (3 O. A. G., 56.)"

Since the admission of the several States referred to, in many of them the entire public domain has been disposed of and within the limits of the others but a small portion remains unsold. The methods of disposition have been various: For cash; in settlement of obligations of the Government to its soldiers, represented by military land warrants; in aid of railroads and canals, and other works of internal improvement; and under the homestead law. The States have as yet made no claim for compensation on account of lands disposed of in the last two named methods; the Government has paid or is in process of paying 5 per cent upon the cash sales, but up to the present time has made no payment to any of the States upon entries of public lands with military land warrants, though demand has been made for the same.

The only ground known to your committee upon which this payment has been refused is that such disposition of the public domain was not "sales of the public lands" within the meaning of the enabling acts. The right of these States to the 5 per cent upon military locations depends, in the opinion of your committee, largely upon the fact whether, as between the Government and the soldier, the lands disposed of formed a part of the consideration of his hire. Upon this point your committee have had little difficulty in arriving at the conclusion that such disposition did, in fact, enter into and become a part of the consideration for the enlistment and services of the soldiers to whom land warrants were issued. The acts of Congress for the benefit of the recruiting service of the United States at the opening of the Revolutionary war are dated in August and September, 1776.

The Commonwealth of Virginia about the same time (October, 1776), for the purpose of raising her quota of men and meeting the exigencies of the coming war, also offered lands to her soldiers as part compensation for their military services. These lands thus offered by the legislature of Virginia were afterwards patented by Congress to her soldiers agreeably to the terms of cession made by Virginia to the Federal Government of the Northwestern Territory March 1, 1784.

The several military grants for the war of 1812 are dated December 24, 1811, January 11, 1812, February 6, 1812, December 12, 1812, January 24, 1814, January 27, 1814, February 10, 1814, April 18, 1814, and December 14, 1814.

Those of the Mexican war are dated February 11, 1847, March 3, 1847, September 28, 1858.

It is clear from the language of these grants that they were designed to effect a future object, and in no sense did they relate to a past subject. The time when and the circumstances under which they were passed indicate but too manifestly the aim

in view, namely, to facilitate and encourage enlistments, that the requisite numerical force of the Army might be enlarged as rapidly as possible, in order to meet the pressing necessities of each of the impending wars.

At the time the resolution of September 16, 1776, was adopted Congress owned no land, but expected by conquest to become entitled to all the land which England had acquired by discovery. Anticipating, therefore, the acquisition of large landed possessions, and expecting to have more land than money, Congress, in order to fill up the rank and file of the Army, and to raise and complete a regularly organized military establishment, offered in advance, besides specified monthly wages in money, an additional *consideration in land*, not for past services, but for services thereafter to be rendered. The colonial government of Virginia did the same thing, and her engagement to pay in land was afterwards assumed and fulfilled by Congress by setting apart for that purpose a section of country lying between the Little Miami and Scioto rivers in Ohio.

The military grants for the war of 1812 and the Mexican war are of the same character, enacted at or near the commencement of each, wholly prospective in their operation, and are their own best expositors; their meaning and purpose can not be misinterpreted. In effect, they said to the party whose military prowess the Government so much needed at the time, "Enlist, and serve your country a given period, and you shall have as a reward therefor a quarter section of land, in addition to your monthly pay." The land thus offered in advance of and as an inducement to the engagement formed as much a part of the contract of enlistment as did the money compensation. One can not with any show of reason be designated a gratuity any more than the other; both alike constituted the consideration for which the services were to be rendered. It follows, therefore, that these grants of land for military service in the three great wars of this country are essentially in the nature of contracts, and as such become the foundation of the claim which the Western and Southern States now make for the 5 per cent thereon, according to the terms of the compact contained in their several enabling acts; for, if they have the elements of a contract, it follows that the lands located thereunder are sales in legal contemplation, and not bounties in any just sense of that term. It involves no other or different principle than if one man should say to another, "Work for me twelve months and I will pay you at the rate of \$15 per month and 80 acres of land for such service." Could he, in law, discharge his obligation by making the money payment and withholding the land, upon the pretext of a bounty to be paid or not at his own pleasure?

That this is the proper construction of the military land-warrant acts of 1847 is abundantly shown by the debate thereon at the time of their passage. When the act of February 11, 1847, came to the Senate from the House, where it originated, an amendment was proposed giving, in addition to the monthly pay and allowances and the money bounty, a grant of land to the soldiers whose enlistment was then sought. The subject was debated at considerable length, and the result was the statute referred to. In the course of the debate Mr. Cameron, the mover of the original amendment, said "he was desirous that those of our fellow-citizens who intended to join the Army might know what they had to expect. The soldier who fought the battles of his country was deserving of reward, and as this Government possessed abundance of lands he thought no better disposition could be made of a portion of them than in rewarding the bravery and patriotism of the soldiers." (Congressional Globe, second session, Twenty-ninth Congress, p. 171.)

Mr. Allen, of Ohio, while objecting to the proposition as not sufficiently guarded and specific, expressed his assent to the principles involved. He said he "was one of those who believed that as between the Government and the citizens great liberality should be observed, more especially as regarded the uncultivated soil of this country. He knew of no better use that could be made of the public domain than to reward the brave and patriotic men who had volunteered to serve in this war." (Ibid., p. 172.)

Mr. Clayton said: "While graduation bills and preemption bills, and other projects for giving away and breaking up the public domain were in vogue, while the land was going, he preferred to see it given to the citizen soldiers and the regular soldiers of the United States Army; he preferred giving the lands to the soldiers as an inducement to fight the battles of the country rather than give them to the paupers of Europe." (Ibid., p. 173.)

Mr. Corwin said: "It was a proposition to grant to every soldier who actually served, and to the heirs of every soldier who died in service, an amount equal to \$200, which should pass current in any land office for the purchase of land. Instead of paying them in advance, it was paying him at the end of his service this amount. * * * A soldier's service was the hardest that any patriot could be called upon to perform, and he thought that they were entitled to receive at the hands of the Government this much at least." (Ibid.)

Mr. Badger said: "If we are to call upon American citizens to enlist in the Army

for the prosecution of this indefinite war—to enlist not merely for a certain period, but during the existence of the war, * * * was it not important that they should throw out strong inducements to the people to peril their happiness, their persons, and their lives? He saw in this very circumstance strong reasons why this bill should not be passed without a direct 'pledge' of future bounty on the part of the Government to induce men, whether as volunteers or regular soldiers, to make these sacrifices. He desired that every man should see on the face of the law under which the Government required the sacrifice from him, the bounty at which the country estimates his service." (Ibid., p. 178.)

Mr. Butler said: "The great object of giving bounty lands to soldiers was to encourage enlistments." (Ibid., p. 207.)

Mr. Webster said: "The object was to obtain the service of the private soldier in the ranks of the Army and in the volunteer corps. * * * The precise point they aimed at was to fill the ranks of the regiments for the efficient defense of the country—the present urgent defense of the country. They asked, therefore, for something which would be an inducement to soldiers to enlist." (Ibid.)

In addition to this we submit that the validity of the claims set up and insisted upon by these States in the bill under consideration has received legislative recognition in at least two acts of the Congress of the United States—one in respect to the State of Alabama, the other in respect to the State of Mississippi, both of which acts we propose briefly to consider.

On March 2, 1855, Congress passed an act entitled "An act to settle certain accounts between the United States and the State of Alabama." This act provides:

"That the Commissioner of the General Land Office be, and he is hereby, required to state an account between the United States and the State of Alabama, for the purpose of ascertaining what sum or sums of money are due to said State, heretofore unsettled under the act of March 2, 1819, for the admission of Alabama into the Union, and that he be required to include in said account the several reservations under the various treaties with the Chickasaw, Choctaw, and Creek Indians within the limits of Alabama, and allow and pay to said State 5 per cent thereon, as in case of other sales."

Subsequently to this, Congress passed an act entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States," which was approved March 3, 1857, and is as follows:

"Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the Commissioner of the General Land Office be, and he is hereby, required to state an account between the United States and the State of Mississippi, for the purpose of ascertaining what sum or sums of money are due to said State, heretofore unsettled, on account of the public lands in said State, and upon the same principles and allowance as prescribed in the 'Act to settle certain accounts between the United States and the State of Alabama,' approved the 2d of March, 1855; and that he be required to include in said account the several reservations under the various treaties with the Chickasaw and Choctaw Indians within the limits of Mississippi, and allow and pay to the said State 5 per centum thereon, as in case of other sales, estimating the lands at the value of \$1.25 per acre.

"SEC. 2. And be it further enacted, That the said Commissioner shall also state an account between the United States and each of the other States upon the same principles; and shall allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at \$1.25 per acre."

The settlements authorized and required by these acts between the Government and the States of Alabama and Mississippi, and the payment of the 5 per cent for these reservations, estimating the land at \$1.25 per acre, are a clear recognition of the principle contended for by the States named in the bill under consideration. The fee to the land in these reservations was granted to the Indians, either out of good will and to encourage friendly relations, or in part consideration of their possessory right to large tracts of this country surrendered to Government. It was no cash sale of the lands to the Indians. So the military land warrants were granted to the soldiers either as a grateful acknowledgment of their services or in part payment of the same; and whether one or the other, the two cases are the same in principle, and the 5 per cent should be paid in both cases or should not be paid in either. But we wish to call especial attention to the provisions of the act with reference to Mississippi, as we think all ambiguity in respect to the question under consideration, if there be any, is removed by the language there used; for if Congress meant anything it would seem the Commissioner, by that act, is required to do three things: First, he is to state an account between the United States and Mississippi and the other States, for the purpose of ascertaining what sum or sums of money are due to these States, heretofore unsettled, on account of public lands in said States; second, he is to include two things in said account, which are all lands and permanent reservations, estimating the same at \$1.25 per acre; and, third, he is to pay 5 per cent thereon, as in cases of other sales. If Congress did not intend to include

all lands upon which military land warrants had been located as well as permanent reservations, we are unable to see what was intended by the language employed in this act. We think it must be admitted that this account was to include all public lands on which the 5 per cent was still unsettled as well as reservations. And by the express terms of the act this necessarily includes the military locations, as these were a part of the public lands on which the 5 per cent had not been paid. If these lands were not intended to be included, what lands does the act refer to? It can not be the lands sold for cash, for there was no dispute about them. The Government had faithfully complied with its obligations to the States as it respects these cash sales, and had paid the 5 per cent on all the lands so sold. Neither can it refer to the reservations, for they were fully provided for by the first section of the act by name, and are to be paid for upon the same principles and allowance as those recognized and provided for in the case of the State of Alabama. And in addition to these reservations the Government is to pay on account of all public lands in said State of Mississippi upon the same principles and allowance. So that both lands and reservations are clearly provided for in this first section, while the second section provides that the United States shall state an account with the other States upon the same principles, and shall allow and pay to them such amount as shall be found due on account of all lands and reservations, estimating the same at \$1.25 per acre. And reservations must be referred to by this act in order to give its provisions force and effect.

And is not the Government as much bound under its contract with these States to pay the 5 per cent agreed upon, where the land is given for and in consideration of military services, as it would be if the sale had been for cash? In other words, the contract presupposes that all the public lands will be so sold and disposed of that the States will realize the per cent agreed upon; and that no disposition of them, to be made in such manner as to defeat the same, was contemplated at the time; and that such is the implication arising from the contract itself. Such was clearly the view taken by Congress of this question in the acts of March 2, 1855, and March 3, 1857. Hence the language used, "*all lands and permanent reservations*," and as if not to be misunderstood, the same are "*to be valued at \$1.25 per acre*." Not 5 per cent of the proceeds from cash sales, but 5 per cent on all lands *disposed of in any other way*, estimating the same at \$1.25 per acre. Any other view would defeat this legislation both in letter and in spirit, and would do violence to every rule of construction known to the law. It could not have been within the contemplation of the parties that Congress might defeat the payment of the 5 per cent by some other disposition of the public lands than a sale of the same for cash; for if it had been, this privilege would have been reserved; and it is clearly evident no right whatever was reserved to make any disposition of the same that would relinquish the payment of this 5 per cent.

The land warrants issued in pursuance of the several acts named were certainly in the nature of evidences of indebtedness. The public lands were made available for meeting the demands of the General Government in the payment of its soldiery just as effectually by the warrant system as if the lands were first converted into money and the money used in liquidating these demands. Instead of patenting a specified tract of land to the soldier entitled thereto, the Government issued to him its written *obligation*, payable in the agreed quantity of land, to be selected from the whole body of the public domain. And these obligations, or "*warrants*," as they are called, were by law made assignable, and were subjected to sale and transfer. In this way they became a species of Government scrip, or currency, and persons desirous of purchasing could go into the market and buy the same, and with it secure title to tracts of the public lands whenever the same were subject to sale and entry.

Can it be considered less a case of sale that the purchaser, instead of paying for his land in greenbacks, does so with the Government's own paper obligations? The chief difference in the two descriptions of paper is that the first is available for purchasing all commodities indiscriminately, while the latter is limited to the purchase of land only. Suppose the United States had issued pecuniary obligations, i. e., bonds payable to bearer at a future day, or payable like greenbacks, whenever the Government should find itself able, but with the proviso that they should be receivable at par in payment for public lands—how would the case of lands paid for with such bonds differ from the present case? The bonds might have been issued like land warrants, for military service, or for any other consideration, or for no consideration. They might have been regarded by Congress strictly as a gratuity to parties thought to have for any reason deserved well of their country.

This would not affect the question whether lands entered and paid for with such bonds ought to be considered as sold. In either case the Government would have received for thus disposing of its lands its own valid outstanding obligations, for the fulfillment of which its faith was pledged, and the surrender of which by the holder would constitute an ample consideration, legal and equitable, for the conveyance.

These considerations apply to the fullest extent to the case of entries of land by means of land warrants.

To your committee it seems that the true solution of the question whether or not land entered by the location of warrants should be considered as *sold* by the Government is to be found in the nature of the transaction at the time of the warrant location, and not in that of its issue.

No land is sold or disposed of in any way by the mere issue of a warrant. That conveys no title whatever to the holder of the warrant for any specific land. The warrant is a mere executory promise or contract, calling for a given quantity of land, to be selected from the body of the public lands. It is not until the specific tract is ascertained, segregated, and the warrant surrendered in exchange for a certificate of location for a particularly described tract or parcel of land, which is to ripen into a full legal title upon the issuance of a patent, that any land can be said to have been disposed of by the Government; but when the warrant is *located*, this, to all events and purposes, is a *sale*.

The term "bounty," as applied to this kind of compensation for military services, seems to be inapt. It certainly is not used in its popular sense as importing a gratuity, because in the several acts of Congress granting lands to the soldiers in the three great wars of this country the "warrants" were not issued in consideration of *past services*, but must be fairly understood as a part of the stipulated compensation provided for by the law under which the enlistment was made for services *thereafter* to be performed.

This is made most manifest by the debate above quoted. The object is there stated explicitly as being to "encourage enlistment."

In the late war of the rebellion, in order to stimulate enlistments, a pecuniary "bounty"—that is, a gross sum in addition to the periodical pay—was offered by the Government instead of land warrants to all who should enlist in the service, and in many instances further "bounties" of the same kind were offered and paid by the counties and cities in order to induce enlistments to fill up their respective quotas of men. Such offers, when accepted and acted upon, have, in repeated instances, been declared by the courts to be valid contracts and have been enforced accordingly.

It will not be contended, as the committee believe, that the agreement to pay the 5 per cent on the sales of the public lands does not find a sufficient consideration in the stipulations of the several States not to interfere with the primary disposal of the soil; not to tax Government land; in some States not to tax lands which the Government might sell for five years; in other States not to tax for three years a class of lands in the hands of certain patentees; not to tax nonresident proprietors more than residents, etc.

The rights surrendered by the States were of great material consequence to them. The right of taxation inheres in the sovereign power of a State, and is extended over all subjects and descriptions of property within its jurisdiction. In the relinquishment of the right of taxation the States have lost a very large revenue, far in excess of the 5 per cent upon all the public lands, whether the same be computed cash sales or upon lands disposed of in payment for military services, or both.

By disposing of the public lands in the manner named the United States discharged an obligation which was of binding force upon all the States as component parts of the common confederacy. Aside from the legal liability of the Government to pay the percentage claimed to the States within whose limits the lands were purchased with military warrants, it may be suggested that it would be palpably inequitable that a few States should be called upon to contribute so largely in the discharge of the nation's indebtedness. But when it is considered that the General Government and the eighteen States claiming relief under the bill submitted for the consideration of your committee entered into a solemn compact, partaking of the mutuality of a legal contract; that the States, in order to secure the 5 per cent on the disposal of the public lands, agreed to surrender rights indisputable and of great value to them if retained, and that in good faith this agreement has, in every respect, been faithfully kept on the part of the States, there seems to be no good and sufficient reason, in the judgment of the committee, why the United States should be relieved of its obligation to pay the claims which the States have presented for adjustment.

The payment by the General Government to the several States of 5 per cent upon the cash sales made during a period of over seventy years, would seem to be conclusive against the Government upon the question of consideration.

The bill under consideration proposes to capitalize the lands taken up by the location of military land warrants at \$1.25 per acre. This has been the minimum price for the Government lands ever since there was a public domain. The price fixed can not, therefore, be considered unfair to the Government. It will also be noted that in the debate quoted upon the act of 1847 Mr. Corwin stated the value of the 160 acres proposed to be offered as a consideration for enlistments at \$200. The market value of the warrants issued under the act also tends to fix the value of the land.

Your committee has also been pressed to consider the obligations of the Govern-

ment to the several States on account of lands granted for the purpose of aiding in the construction of railroads, and other works of internal improvement, and also for lands disposed of under the homestead law.

The grants for railroads and other internal improvements were in nearly or every instance made to the States direct for the use of the enterprise to be aided. In accepting these grants the States fairly waived the right to the 5 per cent compensation upon such lands, and the grants were besides generally of great special benefit to the States to which the grants were made. Besides, no consideration except the one affecting the growth and general prosperity of the country passed to the General Government.

The lands disposed of under the homestead law stand upon a different footing. Their disposition in that particular manner was undertaken without the consent of the States, and while nominally a gift to the settlers, the fees exacted are such as result in a considerable profit to the Government over and above the costs of selling and patenting. As, however, the passage of the homestead law worked a radical and beneficent change in the public-land system of the Government, and one much more beneficial to the States whose limits then embraced public lands than the one theretofore prevailing, the obligation against the Government on account of lands thus disposed of is not very strong, if at all existing.

The committee therefore propose to so amend the bill as to exclude from consideration hereafter the question of compensation for these two classes of lands, and make the acceptance of the compensation provided for by this act a waiver of all claim on account of the disposition of lands for internal improvements and under the homestead law.

And with these amendments the committee recommend the passage of the bill.

SUBDIVISION E.

[Senate Report No. 775, Fifty-second Congress, first session.]

The Committee on Public Lands having had under consideration S. 615, S. 439, S. 1680, and S. 1945, bills granting to each of the several States, North Dakota, South Dakota, Wyoming, and Montana, in the order of the numbers above given, 5 per cent of the net proceeds of the sales of public lands therein; also S. 576 and S. 2394, bills explanatory of an act entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States," report the same back to the Senate recommending their indefinite postponement, and present an original bill for a general law embracing the subject-matter of each and all of said bills, and recommend its passage. The title of said bill is as follows: "A bill explanatory of an act entitled 'An act to settle certain accounts between the United States and the State of Mississippi and other States,' and for other purposes," and will be numbered S. 3086.

It appears that Congress has, at different dates, beginning in 1802 in the case of Ohio, granted and allowed to the several States containing public lands, with the exception of California, 5 per cent upon the net proceeds of the sales of public lands therein.

The act of March 2, 1855 (10 Stat., 630), required the Commissioner of the General Land Office to include in a statement of the 5 per cent due to the State of Alabama "the several reservations under the various treaties with the Chickasaw, Choctaw, and Creek Indians within the limits of Alabama, and allow and pay to the said State 5 per cent thereon, as in case of other sales."

The act of March 3, 1857 (11 Stat., 200), in its first section required the Commissioner of the General Land Office to state an account between the United States and Mississippi upon the same principles of allowance and settlement as provided in the Alabama act of March 3, 1855, and to include in said account "the several reservations under the various treaties with the Chickasaw and Choctaw Indians within the limits of Mississippi, and allow and pay to the said States five per centum thereon, as in case of other sales, estimating the lands at the value of one dollar and twenty-five cents per acre, and in the second section extended the same principle of settlement to the other States, and provided for estimating all lands and permanent reservations at one dollar and twenty-five cents per acre."

The provisions of the said acts of 1855 and 1857 were carried into effect as regards all the States then in the Union to which the 5 per cent grant had been made and wherein Indian reservations existed. With regard to the States since admitted into the Union it has been held by the executive officers that the provisions of said acts are not applicable. The equality of the States is a fundamental principle of the Government, and it may be found running through all the legislation on the subject

of the public lands and grants to the States in connection therewith, as an established principle, that the States shall be treated alike, none being discriminated against. It is accordingly the object of said Senate bill (No. 3086) to declare the said act of March 3, 1857, applicable to the States admitted into the Union since March 3, 1857, namely, Minnesota, Oregon, Kansas, Nebraska, Nevada, Colorado, South Dakota, North Dakota, Washington, Montana, Idaho, and Wyoming, the same as is applied to States previously admitted, and to provide that said act "shall be construed as embracing all lands in present Indian reservations in each of said States, and all lands of former Indian reservations within the United States to which the Indian title has been extinguished since the admission of said States, and which have or shall be disposed of by the United States, for which it has or shall receive cash for the benefit of the Indians upon such reservations; and the Commissioner of the General Land Office shall state an account between the United States and each of the said States, estimating all such lands and reservations at \$1.25 per acre, and shall certify the same to the Secretary of the Treasury for settlement, to be paid out of any money in the Treasury not otherwise appropriated."

The ownership of the lands constituting the public domain, embraced in cessions from Great Britain, France, Spain, and Mexico, and from certain individual States of the Union, were originally regarded as property to be disposed of for the common benefit of the States, and when the States within the limits of which the lands were situated were admitted into the Union there were stipulations made in the acts of admission which was obligatory as contracts on the part of the several States and the United States, among which the grant of the 5 per cent was included.

This grant was for 5 per cent of the net proceeds of the sales of the public lands. At the foundation of this grant was the then established understanding that the lands were to be disposed of for the benefit of the common treasury, and the stipulation for 5 per cent of the proceeds as originally understood amounted to a grant of that percentage of the net proceeds of the sales of all the public lands at such price as they would bring when so disposed of. This understanding was adhered to substantially with regard to the great bulk of the lands during the earlier portion of the history of the country, and the older States had the benefit thereof; but it has since been departed from, and in view of the repeal of the general laws for the sale of the public lands it is apparent that the States in which the lands lie will hereafter realize but little, if any, benefit from the 5 per cent grant for which the United States stipulated when they entered the Union, and in consideration of which the States renounced all right to tax the public domain and bound themselves not to interfere with the primary disposal of the soil by the Federal Government.

But little land now remains subject to sale beyond what is embraced in the Indian reservations, the remainder of the public lands being, under the now established policy, set aside for homes for the people, without price, and with no payment but nominal fees. From the foregoing considerations it appears only equitable and just that the newer States admitted into the Union since the 3d of March, 1857, should receive the benefit of the same principles that were applied in favor of the older States, previously admitted under the act of that date, in the adjustment of their claims under the 5 per cent grant, so far as lands embraced in Indian reservations shall be sold and the proceeds realized and applied for the purposes of the Federal Government, whether in furtherance of its Indian policy or for any other purpose to which they may be applied.

In the laws heretofore enacted on the subject there is none that prescribes a rule for determining precisely what expenses are to be deducted from the gross receipts in ascertaining the net proceeds from the sales of the public lands, but this has been left to the varying opinions of the executive officers. But if the method heretofore obtaining of deducting all the expenses of making surveys, sustaining district land offices, the General Land Office, and the Interior Department, rendered necessary for carrying out the land laws generally, from the gross proceeds of the sales should be continued, in determining the net proceeds under this act, the aggregate thereof might absorb the total proceeds of such sales, or at least leave very little from which the State could realize its 5 per cent. It is due, therefore, to the States to be affected by this legislation that the Senate consider whether they should be compelled to bear more than their share of the expenses, to be proportioned to the total expenses as is the number of acres sold, from which the gross proceeds arise, to the total number of acres disposed of in all the prescribed methods during the period for which the account is made up, and for which the total expenses are incurred, taking into account the fact of the greater expenses incurred per acre by making disposals under the settlement laws, in comparison with the amount of money produced, than in cash sales.

Your committee therefore recommends the passage of the bill, reserving the right to present hereafter an amendment thereto prescribing a more definite and favorable rule for determining the net proceeds from said sales.

SUBDIVISION F.

Acts of Congress granting to the several States of the Union a certain per cent of the net proceeds of the cash sales of the public lands.

States.	Grant.		United States Statutes.	
	Per cent.	Date.	Volume.	Page.
Alabama.....	2	Sept. 4, 1841	5	457
Do.....	3	Mar. 2, 1819	3	489
Do.....	3	May 3, 1822	3	674
Do.....	3	July 4, 1836	5	116
Do.....	5	May 2, 1855	10	630
Do.....	10	Sept. 4, 1841	5	453
Arizona.....	5	Dec. 15, 1893, H. R. 4393.		
Arkansas.....	5	June 23, 1836	5	58
Do.....	10	Sept. 4, 1841	5	453
Colorado.....	5	Mar. 3, 1875	18	476
Florida.....	5	Mar. 3, 1845	5	742
Do.....	5	.....do.....	5	788
Idaho.....	5	July 3, 1890	26	215
Iowa.....	5	Mar. 3, 1845	5	742
Do.....	5	.....do.....	5	789
Do.....	5	Dec. 28, 1846	9	117
Do.....	5	Mar. 2, 1849	9	349
Illinois.....	5	Apr. 18, 1818	3	430
Do.....	10	Sept. 4, 1841	5	453
Indiana.....	3	Apr. 11, 1818	3	424
Do.....	5	Apr. 19, 1816	3	290
Do.....	10	Sept. 4, 1841	5	453
Kansas.....	5	May 4, 1858	11	270
Louisiana.....	5	Feb. 20, 1811	2	643
Do.....	10	Sept. 4, 1841	5	453
Missouri.....	2	Feb. 28, 1859	11	388
Do.....	3	May 3, 1822	3	674
Do.....	5	Mar. 6, 1820	3	547
Do.....	10	Sept. 4, 1841	5	453
Mississippi.....	2	.....do.....	5	457
Do.....	3	Mar. 1, 1817	3	348
Do.....	3	May 3, 1822	3	674
Do.....	5	July 4, 1836	5	116
Do.....	5	Mar. 3, 1857	11	200
Do.....	10	Sept. 4, 1841	5	453
Michigan.....	5	June 23, 1836	5	60
Do.....	10	Sept. 4, 1841	5	453
Minnesota.....	5	Feb. 26, 1857	11	167
Do.....	5	May 11, 1858	11	285
Montana.....	5	Feb. 22, 1889	25	676
Nebraska.....	5	Apr. 19, 1864	13	49
Nevada.....	5	Mar. 16, 1864	13	32
New Mexico.....	5	June 28, 1894, H. R. 303.		
North Dakota.....	5	Feb. 22, 1889	25	676
Ohio.....	3	Mar. 8, 1803	2	226
Do.....	5	Apr. 30, 1802	2	175
Do.....	10	Sept. 4, 1841	5	453
Oklahoma.....		S. B. No. 2512, Fifty-third Congress, third session.		
Oregon.....	5	Feb. 14, 1859	11	384
South Dakota.....	5	Feb. 2, 1889	25	676
Utah.....	5	July 16, 1894	28	107
Washington.....	5	Feb. 22, 1889	25	676
Wisconsin.....	5	Aug. 6, 1846	9	58
Do.....	5	May 29, 1848	9	233
Wyoming.....	5	July 10, 1890	26	222
New Hampshire.....	10	Sept. 4, 1841	5	453
Massachusetts.....	10	.....do.....	5	453
Rhode Island.....	10	.....do.....	5	453
Connecticut.....	10	.....do.....	5	453
New York.....	10	.....do.....	5	453
New Jersey.....	10	.....do.....	5	453
Pennsylvania.....	10	.....do.....	5	453
Delaware.....	10	.....do.....	5	453
Maryland.....	10	.....do.....	5	453
Virginia.....	10	.....do.....	5	453
North Carolina.....	10	.....do.....	5	453
South Carolina.....	10	.....do.....	5	453
Georgia.....	10	.....do.....	5	453

Acts of Congress granting to the several States of the Union a certain per cent of the net proceeds of the cash sales of the public lands—Continued.

States.	Grant.		United States Statutes.	
	Per cent.	Date.	Volume.	Page.
Kentucky	10	Sept. 4, 1841	5	453
Vermont	10	do	5	453
Tennessee	10	do	5	453
Maine	10	do	5	453
District of Columbia	10	do	5	453

NOTE.—California is the only State not mentioned in this table.
See also pages 30 to 36 of Senate Report No. 1043, Fifty-third Congress, third session.

SUBDIVISION G.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., September 1, 1893.

SIR: In reply to your letter of the 25th ultimo I have the honor to inclose herewith statement showing the number of acres located with military bounty-land warrants in the several States named in your letter of the 14th ultimo up to and including June 30, 1893, and would say that in the adjustment of the 5 per cent fund accounts between the United States and the several States that 5 per cent of the net proceeds of cash sales only have been allowed and paid.

Very respectfully,

S. W. LAMOREUX, *Commissioner.*

Hon. JOHN H. GEAR,
House of Representatives, Washington, D. C.

*Statement of the total number of acres located with military bounty-land warrants under various acts * to June 30, 1893.*

States.	Total.	States.	Total.
	<i>Acres.</i>		<i>Acres.</i>
Alabama	1, 163, 487. 18	Minnesota	5, 999, 794. 61
Arkansas	2, 263, 626. 92	Missouri	6, 821, 708. 89
California	851, 194. 60	Mississippi	387, 254. 13
Colorado	208, 804. 47	Nebraska	1, 958, 715. 58
Florida	473, 039	Nevada	10, 740
Iowa	14, 100, 025. 77	Ohio	1, 817, 501. 99
Illinois	9, 593, 853	Oregon	85, 822. 99
Indiana	1, 312, 436. 65	Wisconsin	6, 647, 632. 53
Kansas	4, 364, 003. 03		
Louisiana	1, 166, 463. 23	Total	63, 507, 410. 49
Michigan	4, 516, 305. 50		

* July 27, 1842; February 11, 1847; September 28, 1850; March 22, 1852; March 3, 1855.

SUBDIVISION H.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 31, 1896.

SIR: I am in receipt of your letter of the 27th ultimo, requesting this office to give you "the number of acres of land granted to the various States as swamp lands; also the number of acres located with military bounty land warrants."

In reply I offer you the following observations:

The swamp-land grant is an indefinite grant, not one of quantity, like the agricultural college, university, and other State endowment grants. By its terms it embraces * * * "the whole of those swamp and overflowed lands which may be or are found unfit for cultivation" * * * and as no definite method of ascertaining what lands were indeed swamp from those that were not of that character at the date of the grant has been established, the acreage of lands granted has never

been determined. The report of this office for the year 1891, pages 58-61 and 198-218, contains estimates and other data made at different times on this subject, and I respectfully refer you to the same. According to the report for the year 1895 (not published), these selections under the swamp-land grants up to June 30 last aggregate 80,591,304.39 acres, the approvals to 60,145,813.50 acres, and the patents to 57,785,553.69 acres.

A compilation made from the various annual reports of this office shows substantially the following relative to locations with military bounty-land warrants, viz:

	Acres.
Located prior to September 28, 1850, date of swamp-land grant.....	7,214,600
Located between September 28, 1850, and March 3, 1857.....	28,760,030
Located between March 3, 1857, and June 30, 1894.....	20,268,714
Total	56,243,344

As locations with other scrips are also the basis of swamp-land indemnity, I will state that from the *public domain*, pages 219 and 288, it appears that agricultural college scrip has been issued to the several States to the amount of 7,830,000 acres, and various other scrips to the amount of 2,893,034 acres. It is believed that nearly all of these scrips have been located.

Very respectfully,

E. F. BEST,
Assistant Commissioner.

Hon. R. F. PETTIGREW,
United States Senate Chamber, Washington, D. C.

EXHIBIT NO. 2.

TREASURY DEPARTMENT, OFFICE OF AUDITOR FOR THE INTERIOR DEPARTMENT, *Washington, D. C., February 28, 1896.*

SIR: Your letter of 24th instant to the Comptroller of the Treasury, asking to be furnished with copies of certain General Land Office and First Comptroller's reports and certificates, on accounts of the States of Minnesota and Nebraska, for 5 per cent of the net proceeds of sales of Indian lands lying within such States, has been referred to me for reply, as this office now has charge of and jurisdiction over such accounts, and also has the custody of the records of the late office of First Comptroller relating to public lands.

For a general discussion of the questions involved in these accounts I respectfully refer you to the decisions of First Comptroller Tayler, of November 4, 1875, in relation to the claim of Nebraska. (See Comptroller Lawrence Decisions, vol. 4, p. 247; of First Comptroller Porter of May 6, 1880, in relation to the claim of Kansas; see Lawrence Decisions, vol. 2, pp. 580-592; of Secretary of the Interior Lamar, of June 28, 1887, in relation to the claim of Kansas; see Land Decisions, Department of the Interior, vol. 5, p. 712, and letters of the Commissioner of the General Land Office of December 6, 1880, to O. P. Whitcomb, state auditor of Minnesota, in relation to the claim of that State, and of January 14, 1881, to Thomas P. Kennard, in relation to the claim of the State of Nebraska, copies of which can be had by application to the General Land Office.)

I have the honor to transmit herewith, in compliance with your request, copy of General Land Office Report No. 31666, in favor of the State of Minnesota, for 5 per cent of net proceeds of sales of Winnebago Indian lands, from January 1, 1865, to June 30, 1879, amounting to \$6,725.89, as certified by the First Comptroller January 5, 1882, for payment. This account was not then paid, as it was found that there was no available appropriation, as the appropriation had lapsed into the Treasury. Also, copy of General Land Office Report No. 31667, in favor of the State of Minnesota, for 5 per cent of the net proceeds of sales of Sioux Indian lands, from January 1, 1865, to June 30, 1879, amounting to \$30,477.68, as certified by the First Comptroller January 5, 1882, for payment. This balance was not then paid as the appropriation was in the same condition as before mentioned. (See Comptroller's letters to the governor of Minnesota herewith, dated January 5 and 9, 1882.) Also, copy of General Land Office Report No. 31912, in favor of the State of Nebraska, for 5 per cent of the net proceeds of sales of Pawnee Indian lands, from January 1, 1878, to June 30, 1880, amounting to \$6,275.47, as certified by the First Comptroller January 5, 1882, for payment to the United States Treasurer to be by him deposited to the credit of the State on its direct tax account, which was unpaid.

It was immediately found that only \$4,281.60 of this balance was payable from an available appropriation, and on January 9, 1882, the First Comptroller by additional certificate on the report annulled his former certificate, and directed payment

to the United States Treasurer, and credit as above of \$4,281.60 and the balance due on the account, viz, \$1,993.87, was suspended as a deficiency. (See copy of Comptroller's letter to the Governor of January 5, 1882.) All of these claims or balances were then certified to Congress for deficiency appropriation. (See H. of R. Ex. Doc. No. 26, first session, Forty-seventh Congress, p. 6, of January 14, 1882. See also copy of Comptroller's letters herewith of February 9 and July 20, 1882.) Congress provided for the payment of these balances to Minnesota and Nebraska by deficiency appropriation act for the fiscal year 1883 (U. S. Stats., vol. 22, p. 276), and also provided for the adjustment and settlement of the direct tax account of Nebraska by the sundry civil act of August 7, 1882 (U. S. Stats., vol. 22, 314), in accordance with Comptroller's letter of July 20.

The accounts of the State of Minnesota per General Land Office Reports Nos. 31666 and 31667 were on August 9, 1882, certified for payment by First Comptroller's additional certificates on said reports, and the balances were then paid.

The account of the State of Nebraska for the balance of \$6,275.47 found due on General Land Office report No. 31912 was then restated by the General Land Office, per reports Nos. 33415 and 33416, for \$1,993.87 and \$4,281.60, respectively. These reports were certified for payment by Comptroller's certificates dated August 14, 1882, and the balances were paid. Herewith I hand you a copy of report No. 33416 above mentioned. I have been unable to find report No. 33415 in the files of this office, but I find conclusive records to show that it was then stated by the General Land Office and examined and certified by the First Comptroller on August 14, 1882, and the balance of \$1,993.87 paid to the governor.

The inclosed copies of report and letters are all that I can find on the subject.

Respectfully, yours,

SAM'L BLACKWELL, Auditor.

Hon. JOHN G. GEAR,
United States Senate.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 5, 1882.

SIR: An account has been adjusted between the United States and the State of Minnesota, per Report No. 31667, under the fifth clause of the act of Congress approved February 26, 1857, for 5 per cent upon the net proceeds of sales from January 1, 1865, to June 30, 1879, inclusive, of lands within the limits of the State heretofore embraced within the Sioux Indian Reservation, and there has been found due the State the sum of \$30,477.68.

A Treasury draft to your order for the foregoing amount will issue in due course of business.

Very respectfully,

WM. LAWRENCE,
Comptroller.

The GOVERNOR OF MINNESOTA,
St. Paul, Minn.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., February 28, 1896.

SIR: The appropriation from which the several amounts found due the State of Minnesota, per reports Nos. 31666 and 31667, for the 5 per cent upon the net proceeds of the sales of Winnebago and Sioux Indian Reservation, notice of which was given you by letters from this office dated January 5, 1882, has, it appears, lapsed into the United States Treasury.

The several amounts have, however, been reported with others of a like character to the Secretary of the Treasury with a view of having them included in the list of deficiencies for appropriation by Congress, and as soon as the appropriation is made by Congress drafts will be forwarded to your order for the amounts.

Very respectfully,

WM. LAWRENCE, Comptroller.

The GOVERNOR OF MINNESOTA,
St. Paul, Minn.

Report No. 31667.]

DEPARTMENT OF THE INTERIOR,
General Land Office, January 10, 1881.

SIR: I have examined and adjusted an account between the United States and the State of Minnesota, under the fifth clause of the act of Congress approved February 26, 1857, for 5 per cent upon the net proceeds of sales from January 1, 1865, to June 30, 1879, inclusive, of lands within the limits of the State heretofore embraced

within the Sioux Indian Reservation, and find that there is due to said State as follows:

Amount of 5 per cent upon \$609,553.59, the net proceeds of sales of land as above, \$30,477.68.

I do not find the State chargeable on said account, as appears from annexed detailed statement.

C. W. HOLCOMB, *Acting Commissioner.*

Hon. WILLIAM LAWRENCE,
First Comptroller of the Treasury.

\$30,477.68.]

TREASURY DEPARTMENT,
Comptroller's Office, January 5, 1896.

I admit and certify the above balance of \$30,477.68, payable to the governor of Minnesota, at St. Paul, Minn.—pay as provided by section 3689 of the Revised Statutes, "Five per centum fund to States." The State to be charged with the amount.

WM. LAWRENCE, *Comptroller.*

The REGISTER.

TREASURY DEPARTMENT,
Comptroller's Office, August 9, 1882.

Additional certificate.

The within and foregoing certificate is hereby annulled, and the amount found due, viz, \$30,477.68, is to be paid to the governor of Minnesota, at St. Paul, Minn., as provided for by deficiency act, approved August 5, 1882, of Sioux Indian reservations, within said State prior to July 1, 1879.

The State of Minnesota to be charged with the amount.

WM. LAWRENCE, *Comptroller.*

The REGISTER.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 5, 1882.

SIR: An account has been adjusted between the United States and the State of Minnesota, per Report No. 31666, under the fifth clause of the act of Congress, approved February 26, 1857, for 5 per cent upon the net proceeds of sales from January 1, 1865, to June 30, 1879, inclusive, of lands within the limits of the State, heretofore embraced within the Winnebago Indian reservations, and there has been found due the State the sum of \$6,725.89.

A Treasury draft to your order for the foregoing amount will issue in due course of business.

Very respectfully,

WM. LAWRENCE,
Comptroller.

The GOVERNOR OF MINNESOTA,
St. Paul, Minn.

Report No. 31666.]

DEPARTMENT OF THE INTERIOR,
General Land Office, January 10, 1881.

SIR: I have examined and adjusted an account between the United States and the State of Minnesota, under the fifth clause of the act of Congress approved February 26, 1857, for 5 per cent upon the net proceeds of sales from January 1, 1865, to June 30, 1879, inclusive, of lands within the limits of the State, heretofore embraced within the Winnebago Indian Reservation, and find that there is due to said State as follows:

Amount of 5 per cent upon \$134,517.91, the net proceeds of sales of lands as above, \$6,725.89.

I do not find the said State chargeable in said account, as appears from the annexed detailed statement.

C. W. HOLCOMB, *Acting Commissioner.*

Hon. WILLIAM LAWRENCE,
First Comptroller of the Treasury.

\$6,725.89.]

TREASURY DEPARTMENT,
Comptroller's Office, January 5, 1882.

I admit and certify the above balance of \$6,725.89, payable to the governor of Minnesota, at St. Paul, Minn.—pay as provided by section 3689 of the Revised Statutes, "Five per centum fund to States." The State to be charged with the amount.

WM. LAWRENCE, *Comptroller.*

The REGISTER.

TREASURY DEPARTMENT,
Comptroller's Office, August 9, 1882.

Additional certificate.

The within and foregoing certificate is hereby annulled, and the amount, \$6,725.89, found due is to be paid to the governor of Minnesota, St. Paul, Minn., as provided for by the act approved August 5, 1882, 5 per cent of the net proceeds of the sales of the Winnebago Indian reservations, within the limits of said State, prior to July 1, 1879. The State of Minnesota to be charged with the amount.

WM. LAWRENCE, *Comptroller.*

The REGISTER.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., January 5, 1882.

SIR: An account has been adjusted between the United States and the State of Nebraska per Report No. 31912, under section 12 of the act approved April 19, 1864 (Stat. 13, p. 49), for the 5 per cent upon the net proceeds of the sales of lands within the limits of the State of Nebraska, heretofore embraced within the Pawnee Indian Reservation, commencing January 1, 1878, and ending June 30, 1880, inclusive, and there has been found due the State the sum of \$6,275.47.

Under a recent ruling of the Department it has been held that all sums found due to the States indebted to the Government on account of direct tax should be applied to the payment of such indebtedness. The amount above named has therefore been directed to be carried to the credit of the State on account of the "direct tax," as provided for by section 8, act of August 5, 1861 (U. S. Stat. 12, p. 292). The amount apportioned to the State on account of direct tax was \$19,312, and this is the first payment.

Very respectfully,
THE GOVERNOR OF NEBRASKA, *Lincoln, Nebr.*

WM. LAWRENCE, *Comptroller.*

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., February 9, 1882.

SIR: On page 6 of the letter of the Secretary of the Treasury, dated January 14, 1882, House Ex. Doc. No. 26, transmitting a schedule of claims allowed under appropriations exhausted, referred to the Committee on Appropriations and ordered to be printed, January 19, 1882, I notice certificate of claim No. 31912 for \$1,993.87 is in favor of the State of Kansas, when it should be in favor of the State of Nebraska. The act April 19, 1864, vol. 13, page 461, in the column of remarks is erroneous also. It should be act April 19, 1864, vol. 13, sec. 12, page 49.

You will oblige me by having the errors corrected to conform to the above.
Very respectfully,

WM. LAWRENCE, *Comptroller.*

Hon. CHARLES J. FOLGER, *Secretary of the Treasury.*

No. 31912.]

DEPARTMENT OF THE INTERIOR,
General Land Office, March 21, 1881.

SIR: I have examined and adjusted an account between the United States and the State of Nebraska, under the act of Congress of April 19, 1864 (Stat. 13, p. 461), for 5 per cent of the net proceeds, from January 1, 1878, to and including June 30, 1880, of the sales of lands within the limits of the State, heretofore embraced within the Pawnee Indian Reservation, and find that said State is entitled to the following credit:
By amount of 5 per cent on \$125,509.36, net proceeds of sales of lands as above, \$6,275.47.

Balance due the State on said account, \$6,275.47, as appears from annexed detailed statement.

J. A. WILLIAMSON, *Commissioner.*

Hon. WILLIAM LAWRENCE,
First Comptroller of the United States Treasury.

\$6,275.47.]

TREASURY DEPARTMENT,
Comptroller's Office, January 5, 1882.

I admit and certify the above balance of \$6,275.47 to be paid to the United States Treasurer, to be by him deposited to the credit of the State of Nebraska, on account of direct tax, as provided for by section 8, act of August 5, 1861 (U. S. Stat. 12, p. 292). Pay as provided for by section 12, page 49, Stat. 13. The State to be charged with the amount.

The REGISTER.

WM. LAWRENCE, *Comptroller.*

Additional certificate.

TREASURY DEPARTMENT,
Comptroller's Office, January 9, 1882.

The within certificate is hereby annulled, and of the amount (\$6,275.47) found due to the State of Nebraska let \$4,281.60 be paid to the United States Treasurer, to be by him deposited to the credit of the State of Nebraska, on account of direct tax, as provided for by section 8, act of August 5, 1861 (U. S. Stat. 12, p. 292).

The residue, \$1,993.87, having lapsed into the United States Treasury, can not be passed to the credit of the State until appropriated by Congress.

Pay as provided for by section 12, page 49, Stat. 13. The State to be charged with the \$4,281.60.

WM. LAWRENCE, *Comptroller.*

The REGISTER.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., July 20, 1882.

SIR: The letter of Hon. Alven Saunders with reference to the direct tax apportioned to the Territory of Nebraska, per act of Congress approved August 5, 1861, referred by you to this office for report, has been received.

In answer, I have the honor to state that the books of the Treasury show that the amount charged to the State of Nebraska on the above account was \$19,312.

January 9, 1882, an account was certified by this office showing a balance of \$6,275.47 due to the State of Nebraska on account of 5 per cent of the net proceeds of sales of certain Indian reservations, within the limits of said State, during the period commencing January 1, 1878, and ending June 30, 1880. Of this amount, \$1,993.89 accrued on sales for the years 1878-79.

The appropriation therefor was covered back into the Treasury pursuant to the statute, the residue of the balance, viz, \$4,281.60, was pursuant to the Comptroller's certificate directed to be paid to the Treasurer of the United States, and to be by him deposited to the credit of the State of Nebraska, as a payment on the direct-tax account of that State, and this direction has been complied with. That part of the balance for which the appropriation was not available, namely, the \$1,993.87, has been reported to Congress by the Secretary of the Treasury for an appropriation pursuant to section 4, act of June 14, 1878 (20 Stat., 130), and an item for this amount has been reported in the deficiency bill now pending in Congress.

The act of July 1, 1862, section 38, provided: "That the sum of nineteen thousand, three hundred and twelve dollars, direct tax, laid upon the Territory of Nebraska by this act, shall be paid and satisfied by deducting said amount from the appropriation for legislative expenses of the Territory of Nebraska for the year ending thirtieth June, eighteen hundred and sixty-three, and no further claim shall be made by said Territory for legislative expenses for said year."

Congress made an appropriation of \$20,000 for the legislative expenses of Nebraska for that year (12 Stats., 365).

There was advanced from this appropriation to the secretary of that Territory for its legislative expenses for that year the sum of \$2,000, and no more. This sum of \$2,000 so advanced was paid back to the United States the same year by the secretary of the Territory, and covered into the Treasury with other deposits per warrants in favor of the Treasurer, Nos. 138 and 273, dated respectively November 29, 1862, and December 31, 1862.

If the Territory incurred any legislative expenses for the year ending June 30, 1863, such expenses were not paid by the United States, and no demand has been made on the United States for such expenses for that year.

The provision of section 38 of the act of July 1, 1862, has not been executed by the accounting officers, and the appropriation is not now available, it having been covered back into the Treasury.

The true intent of this provision was, in my opinion, that the direct-tax account of the Territory would be balanced on the books of the Treasury if the Territory would pay its own legislative expenses for the year ending June 30, 1863.

It may be assumed that the Territory has fulfilled the requirement of the section. In this view of the matter, that account should be balanced pursuant to the true intent of the provision by an appropriation of \$15,030.40, payable to the Treasurer of the United States, to be by him deposited in the Treasury for that purpose; and an appropriation of \$4,281.60 should be made in favor of the State of Nebraska on account of that amount of her 5 per cent fund which has been withheld and deposited as aforesaid to the credit of the direct-tax account.

Very respectfully,

WM. LAWRENCE, *Comptroller.*

HON. CHAS. J. FOLGER,
Secretary of the Treasury.

Special account.

Report No. 33416.]

DEPARTMENT OF THE INTERIOR,
General Land Office, August 11, 1882.

SIR: I have examined and adjusted an account between the United States and the State of Nebraska, under the act of Congress approved August 7, 1882, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1883, and for other purposes," and find that said State is entitled to the following:

CREDIT.

By amount of 5 per cent on the net proceeds of the sale of the former Pawnee Indian Reservation, situated in the State of Nebraska, from July 1, 1879, to June 30, 1880, inclusive, to wit, \$85,632.05 \$4,281.60
No debits.
Balance due the State of Nebraska on said account, \$4,281.60.
As will appear from above-mentioned act of Congress and annexed detailed statement.

N. C. MCFARLAND, *Commissioner.*

Hon. WM. LAWRENCE,
First Comptroller, United States Treasury.

\$4,281.60.]

TREASURY DEPARTMENT,
Comptroller's Office, August 14, 1882.

I admit and certify the within balance of \$4,281.60, payable to the governor of Nebraska, at Lincoln, Nebr., on account of 5 per cent of net proceeds of sales of certain Indian reservations within the limits of the State of Nebraska.

Pay as directed per act approved August 7, 1882. (Public, No. 217, pp. 13 and 14.)

WM. LAWRENCE, *Comptroller.*

The REGISTER.

EXHIBIT NO. 3.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 26, 1896.

SIR: I have the honor to inclose herewith statement requested per letter 24th instant, relative to moneys accrued and paid to the several public-land States on account of the grants of 5 per cent of the net proceeds of the sales of public lands therein.

Very respectfully,
Hon. GROVE L. JOHNSON,
House of Representatives, Washington, D. C.

S. W. LAMOREUX,
Commissioner.

DEPARTMENT OF THE INTERIOR,
General Land Office, February 26, 1896.

Statement of the amounts which have accrued and been paid to the following-named States on account of the grants of the 2, 3, and 5 per cent of the net proceeds from sales of public and Indian lands lying within their respective limits which have been sold by the United States up to and including June 30, 1895.

Land States.	Class of land.	2 per cent.	3 per cent.	5 per cent.	Total amount 2 and 3 per cent columns.	Total amount accrued and paid on account of 2, 3, and 5 per cent grants up to June 30, 1895.	Acts of Congress.
Alabama	Public land .	\$375,769.64	\$563,654.51	.....	\$939,424.15	.....	Mar. 2, 1819
	Indian land .	51,334.57	77,001.85	.....	128,336.42	.....	Mar. 2, 1855
Arkansas	Public land .	.....	.....	\$265,060.89	.....	\$1,067,760.57	June 23, 1836
Colorado	do .....	.....	.....	253,325.20	.....	.....	Mar. 3, 1875
	Indian land .	.....	.....	50,594.94	.....	.....	Mar. 2, 1889
						303,920.14	

Statement of the amounts which have accrued and been paid to States, etc.—Continued.

Land States.	Class of land.	2 per cent.	3 per cent.	5 per cent.	Total amount 2 and 3 per cent columns.	Total amount accrued and paid on account of 2, 3, and 5 per cent grants up to June 30, 1895.	Acts of Congress.
Florida.....	Public land.....			\$111,883.18		\$111,883.18	Mar. 3, 1845
Idaho.....	do.....			23,378.06		23,378.06	July 3, 1890
Illinois.....	do.....	\$474,119.69	\$711,179.54		\$1,185,299.23		Apr. 18, 1818; Dec. 12, 1820
	Indian land.....	*1,043.86	1,565.80		2,609.66		Mar. 3, 1857
Indiana.....	Public land.....	413,568.61	620,352.92		1,033,921.53	1,187,908.89	Apr. 19, 1816; Apr. 11, 1818
	Indian land.....	*2,533.49	3,800.24		6,333.73	1,040,255.26	Mar. 3, 1857
Iowa.....	Public land.....			626,075.16		633,638.10	Mar. 3, 1845
	Indian land.....			7,562.94			Mar. 3, 1857
Kansas.....	Public land.....			501,406.06			Jan. 29, 1861
	Indian land.....			592,373.02		1,093,779.08	Decision First Comptroller, H Lawrence, p. 584.
Louisiana.....	Public land.....			437,719.07		437,719.07	Feb. 20, 1811
Michigan.....	do.....			546,969.89			June 23, 1836
	Indian land.....			19,829.10		566,798.99	Mar. 3, 1857
Minnesota.....	Public land.....			364,379.26		401,582.83	Mar. 26, 1857
	Indian land.....			37,203.57			Do.
Mississippi.....	Public land.....	356,112.60	534,168.96		890,281.56		May 3, 1822; Sept. 4, 1841
	Indian land.....	68,105.23	102,157.83		170,263.06	1,060,544.62	Mar. 3, 1857
Missouri.....	Public land.....	412,710.19	618,458.34		1,031,168.53	1,031,168.53	Mar. 6, 1820; Feb. 28, 1859
Montana.....	do.....			54,411.78		54,411.78	Feb. 22, 1889
Nebraska.....	do.....			478,048.05			Apr. 19, 1864
	Indian land.....			27,043.99			Do.
Nevada.....	Public land.....			11,254.77		505,092.04	
North Dakota.....	do.....			21,728.31		11,254.77	Mar. 21, 1864
Ohio.....	do.....	*399,400.92	599,101.36		998,502.28	21,728.31	Feb. 22, 1889
	Indian land.....			850.73	850.73		June 30, 1802
Oregon.....	Public land.....			225,616.55		999,353.01	Mar. 3, 1857
South Dakota.....	do.....			30,687.56		225,616.55	Feb. 14, 1859
Utah.....	do.....					30,687.56	Feb. 22, 1889
Washington.....	Public land.....			111,510.85		111,510.85	Feb. 22, 1889
Wisconsin.....	do.....			533,242.93			Aug. 6, 1846
	Indian land.....			41,647.13		574,890.06	Mar. 3, 1857
Wyoming.....	Public land.....			17,269.76		17,269.76	July 10, 1890
						11,777,212.90	

* Reserved and applied under the authority of Congress to the laying out and construction of road leading to said States (Ohio, Indiana, and Illinois). See acts of April 30, 1802 (2 Stats., 173); April 19, 1816 (3 Stats., 289); April 18, 1818 (3 Stats., 428).

NOTE.—State fund accounts are stated annually, and as soon as possible after the expiration of the fiscal year. The above statement can not be brought up to January 1, 1896, for the reason that all the receiver's accounts for two quarters 1896 have not been received from the Auditor, Treasury Department.

† Utah was admitted into the Union January 4, 1896, and is entitled to 5 per cent of the net proceeds of the sales of public lands subsequent to that date. At the close of the present fiscal year an account will be stated for amount due said State from date of admission to June 30, 1896, in accordance with section 9, act of July 16, 1894.

NOTE.—California is the only public-land State not named in said statement.

EXHIBIT NO. 4.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 7, 1896.

SIR: I have the honor to acknowledge receipt of your letter of 2d instant, requesting a "statement of the amount of money to which the public-land States—Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan—were entitled on account of the 10 per cent of the net proceeds of the sale of the public lands, as recited in section 1 of the act of September 4, 1841 (5 U. S. Stats., 453), and which of said States were paid or credited with the amount to which they were so entitled, and which of said States were not so paid or credited with said sums under said act; and if not paid or credited, then why not."

In reply thereto I would say that prior to March 3, 1849, all accounts relating to public land were adjusted and paid under supervision of the "Secretary of the Treasury," and the records of this office, so far as known, do not show the amounts to which the several States were entitled under said act, I must therefore respectfully refer you to that Department for the information desired.

Very respectfully,

S. W. LAMOREUX, *Commissioner.*

Hon. GROVE L. JOHNSON,
House of Representatives, Washington, D. C.

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 9, 1896.

The within letter is respectfully referred to the Honorable Secretary of the Treasury, with the request that the information therein sought may be furnished me immediately by the proper subdivision or bureau or office of his Department, and the return to me of this communication from Division M of the General Land Office, and oblige,

Very respectfully,

GROVE L. JOHNSON.

TREASURY DEPARTMENT, *March 13, 1896.*

Respectfully referred to the Auditor for the Interior Department for report.

S. WIKE, *Acting Secretary.*

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 17, 1896.

SIR: I have the honor to return herewith the letter of the Commissioner of the General Land Office, dated the 7th instant, which was referred to the Auditor for the Interior Department for report, and to inclose therewith a copy of the report of that officer, embodying the information called for as far as the records of his Bureau enable him to furnish it.

Respectfully, yours,

W. E. CURTIS, *Acting Secretary.*

Hon. GROVE L. JOHNSON,
House of Representatives, Washington, D. C.

TREASURY DEPARTMENT,
OFFICE OF AUDITOR FOR THE INTERIOR DEPARTMENT,
Washington, D. C., March 16, 1896.

SIR: I have the honor to submit the following report, in compliance with your request contained in your reference to me, on 13th instant, of the communication from Hon. Grove L. Johnson, M. C., dated 9th instant, referring to you for consideration and reply the letter to him from the Commissioner of the General Land Office, dated 7th instant, in reply to Mr. Johnson's request for a "statement of the amount of money to which the public-land States—Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan—were entitled on account of the 10 per cent of the net proceeds of the sale of the public lands, as recited in section 1 of the act of September 4, 1841 (5 U. S. Stats., 453), and which of said States were paid or credited with the amount to which they are so entitled, and which said States were not so paid or credited with said sums under said act, and if not paid or credited, then why not?"

The act of Congress approved September 4, 1841, entitled "An act to appropriate the proceeds of the sales of the public lands, etc." (5 U. S. Stats., 453), provides in section 1 that from and after December 31, 1841, there be allowed and paid to the several States named therein, "over and above what each of the said States is entitled to by the terms of the compacts entered into between them and the United States upon their admission into the Union, the sum of 10 per cent upon the net proceeds of the sales of the public lands which, subsequent to the day aforesaid, shall be made within the limits of each of the said States respectively."

Section 2 of said act provides for the distribution among the several States, Territories, and the District of Columbia of the residue of the net proceeds of sales of public lands according to their population, after deducting from the gross proceeds of such sales certain specified expenditures for the public-lands service.

The provisions of sections 1 and 2 for the distribution of the proceeds of sales of public lands are controlled and limited by the provisions of sections 5 and 6 of the same act, which provide for the suspension of such distribution of the proceeds as follows: First, in case of a foreign war; and second, in case of the enactment of a new tariff act or law inconsistent with the provisions of the tariff act of March 2, 1832, which was then in effect.

This office has no records or data showing what the different amount was of the proceeds so distributed among the several States under section 1 and section 2 of this act, but it appears that each State was paid its proportion and what it was entitled to receive as long as those provisions of law remained in force, which appears to have been from January 1, 1842, until August 30, 1842, inclusive, on which latter date a new tariff act was approved, by which the distribution of the proceeds of sales of public lands above referred to was specifically suspended—see section 30 of the tariff act of August 30, 1842 (5 U. S. Stats., p. 567)—and they do not appear to have ever been resumed.

The provisions of sections 1 and 2 of the act of September 4, 1841, appear to have been considered, and decisions in relation thereto rendered by the accounting officers of the Treasury having jurisdiction in the matter, as follows: Decision of Commissioner of the General Land Office of June 23, 1842, and decision of the First Comptroller of October 10, 1842, of which I find reference, but the decisions are not of record in this office, and I have not seen them.

The published reports of "Receipts and expenditures of the United States" and the "Finance Reports" of the Secretary of the Treasury show the total distribution of the proceeds of sales of public lands among the several States, etc., under sections 1 and 2 of the act of September 4, 1841, for the time the law was in force, to have been \$524,142.56.

The different amounts so paid to each State and Territory are itemized and shown in reports of "Receipts and expenditures," as follows:

See report for calendar year 1842, pp. 60, 61, for	\$363, 786. 38
See report from January 1 to June 30, 1843, pp. 45, 46, for	83, 659. 37
See report for fiscal year ended June 30, 1844, pp. 49, 50, for	76, 696. 81
Total	524, 142. 56

See "Finance Reports" of the Secretary of the Treasury, vol. 4, as follows:

Paid for calendar year 1842, p. 621	\$425, 607. 68
Paid from January 1 to June 30, 1843, p. 624	83, 233. 79
Paid for fiscal year ended June 30, 1844, p. 679	15, 301. 09
Total	524, 142. 56

In his "Finance Report" dated December 6, 1843 (vol. 4, p. 605), Secretary of the Treasury John C. Spencer makes the following statement:

"The expenditures for the next eighteen months will be diminished to a considerable extent, in consequence of the distribution of the proceeds of the sales of public lands having ceased."

At that time the General Land Office was a bureau of the Treasury, as stated by the Commissioner, but it was an accounting office in relation to public lands and was the office charged with the administration of affairs relating to public lands, and it should be able to give specific information from its official records of the amounts found due to the several States under sections 1 and 2 of the act of September 4, 1841.

Herewith I return the papers inclosed by you.

Respectfully, yours,

SAML. BLACKWELL,
Auditor.

The SECRETARY OF THE TREASURY.

[To December 1, 1883.]

DISTRIBUTION ACT OF SEPTEMBER 4, 1841.

DISTRIBUTION OF THE NET PROCEEDS OF THE MONEYS ARISING FROM THE SALES OF PUBLIC LANDS IN THE SEVERAL PUBLIC-LAND STATES AND TERRITORIES.

The act of September 4, 1841, provided that after deducting 10 per cent of the net proceeds of the sales of public lands within the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan, all the net proceeds of the sales of public lands in all the States, subsequent to December 31, 1841, were to be divided *pro rata* among the twenty-six States and the Territories of Wisconsin, Iowa, and Florida, and the District of Columbia, according to their respective Federal population, as ascertained by the census of 1840.

Statement of the amount allowed and paid to the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan under the distribution act of September 4, 1841.

Ohio.....	\$61,046.33
Indiana.....	30,278.13
Illinois.....	50,563.10
Alabama.....	25,125.23
Missouri.....	23,246.55
Mississippi.....	14,088.14
Louisiana.....	14,168.99
Arkansas.....	5,012.16
Michigan.....	9,729.57
Total.....	233,258.20
(Public Domain, 256.)	

[Corrected to June 30, 1882.]

Statement showing the respective shares of the several States and Territories of the United States and the District of Columbia, under the distribution act of September 4, 1841, of the residue of the net proceeds of the public lands sold to August 29, 1842.

States and Territories and District of Columbia.	Distributive shares.	States and Territories and District of Columbia.	Distributive shares.
Maine.....	\$19,716.23	Mississippi.....	\$14,088.14
New Hampshire.....	11,181.36	Louisiana.....	14,168.99
Massachusetts.....	28,985.35	Tennessee.....	29,703.23
Rhode Island.....	4,276.03	Kentucky.....	27,776.19
Connecticut.....	12,180.70	Ohio.....	61,046.33
Vermont.....	11,471.09	Indiana.....	30,278.13
New York.....	95,436.04	Illinois.....	50,563.10
New Jersey.....	14,657.17	Missouri.....	23,246.55
Pennsylvania.....	67,738.95	Arkansas.....	5,012.16
Delaware.....	3,027.14	Michigan.....	9,729.57
Maryland.....	17,057.42	Wisconsin.....	1,215.72
Virginia.....	41,657.00	Iowa.....	1,693.70
North Carolina.....	25,739.60	Florida.....	1,736.29
South Carolina.....	18,214.90	District of Columbia.....	1,643.72
Georgia.....	22,790.37		
Alabama.....	25,125.23	Total.....	691,117.05

(Public Domain, 753.)

EXHIBIT NO. 5.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 29, 1896.

SIR: In compliance with your request of the 22d instant, I send you herewith a statistical table of two sheets, which I have caused to be compiled from the statutes and the records of this office.

The table is the result of the first attempt to systematically classify the land grants to the States, and while it is feared that there are omissions, it is believed that it is substantially correct.

Very respectfully,

E. F. BEST,
Assistant Commissioner.

HON. GROVE L. JOHNSON,
House of Representatives, Washington, D. C.

TABLE, PART 1.—*Area of lands donated to States for various purposes under various general and special grants.*

States and Terri- tories.	Support of common schools.*		Acade- mies, sem- inaries, or univer- sities.	Agricultural and mechanical colleges.		Public build- ings.	Peni- tentia- ries.†	Court- house.	Seat of govern- ment.	Deaf and dumb asylum.	Fish hatch- ery.	Insane asylum.	Camp and parade grounds	Desert lands.‡	Recapitula- tion.
	Sections.	Lands granted.		Lands.	Scrip.										
Alabama.....	Sec. 16	<i>Acres.</i> 901,725	<i>Acres.</i> 46,080	<i>Acres.</i>	<i>Acres.</i> 240,000	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i> 1,187,805
Arkansas.....	do	928,057	46,080		150,000	9,600		1,000							1,134,737
California.....	Secs. 16 and 36	5,610,702	46,080	150,000		6,400								1,000,000	6,813,182
Colorado.....	do	3,715,555	46,080	90,000		32,000	32,000							1,000,000	4,915,635
Connecticut.....					180,000										180,000
Delaware.....					90,000										90,000
Florida.....	Sec. 16	1,053,653	92,160		90,000	5,120									1,240,933
Georgia.....					270,000										270,000
Idaho.....	Secs. 16 and 36	3,068,231	46,080	90,000		32,000								1,000,000	4,236,311
Illinois.....	Sec. 16	985,141	46,080		480,000										1,511,221
Indiana.....	do	601,049	46,080		390,000										1,037,129
Iowa.....	do	978,578	46,080	240,000		3,200									1,267,858
Kansas.....	Secs. 16 and 36	2,876,124	46,080	90,000		6,400									3,018,604
Kentucky.....					330,000					22,508.65					352,508.65
Louisiana.....	Sec. 16	797,808	46,080		210,000										1,053,888
Maine.....					210,000										210,000
Maryland.....					210,000										210,000
Massachusetts.....					360,000										360,000
Michigan.....	Sec. 16	1,003,573	46,080	240,000		3,200									1,292,853
Minnesota.....	Secs. 16 and 36	2,969,991	92,160	120,000		6,400									3,188,551
Mississippi.....	Sec. 16	838,329	69,120		210,000										1,117,449
Missouri.....	do	1,162,137	46,080	330,000						2,560					1,540,777
Montana.....	Secs. 16 and 36	5,112,035	46,080	90,000		32,000									6,230,755
Nebraska.....	do	2,637,155	46,080	90,000		12,800	12,800						640	1,000,000	2,798,835
Nevada.....	do	3,985,422	46,080	90,000		12,800	12,800							1,000,000	5,147,102
New Hampshire.....					150,000										150,000
New Jersey.....					210,000										210,000
New York.....					990,000										990,000
North Carolina.....					270,000										270,000
North Dakota.....	Secs. 16 and 36	2,531,200	46,080	90,000		32,000								1,000,000	3,699,280
Ohio.....	Sec. 16	710,610	69,120		630,000										1,409,730
Oregon.....	Secs. 16 and 36	3,387,520	46,080	90,000		6,400								1,000,000	4,530,000
Pennsylvania.....					780,000										780,000
Rhode Island.....					120,000										120,000
South Carolina.....					180,000										180,000
South Dakota.....	Secs. 16 and 36	2,813,511	46,080	120,000		32,000						640	640	1,000,000	4,012,871
Tennessee.....					300,000										300,000
Texas.....					180,000										180,000
Utah.....	Secs. 2, 16, 32, 36	6,007,182	156,080	200,000		64,000								1,000,000	7,427,262
Vermont.....					150,000										150,000
Virginia.....					300,000										300,000

Washington	Secs. 16 and 36	2,488,675	46,080	90,000													1,000,000	3,624,755
West Virginia					150,000													150,000
Wisconsin	Sec. 16	958,649	92,160	240,000		6,400												1,297,209
Wyoming	Secs. 16 and 36	3,480,285	46,080	90,000		32,000								640			1,000,000	4,649,005
Arizona	do	4,050,346	46,080															4,096,426
New Mexico	do	4,309,369	46,080															4,355,449
Oklahoma	do	1,376,333	59,520			177,280												1,732,173
Total		71,338,945	1,644,080	2,599,520	7,830,000	512,000	57,600	1,000	2,590	22,508.65				{ 640 } { 59,520 }	640	1,280	11,000,000	95,070,293.65

*The grant for the support of common schools is of certain sections in place in each township of the State, or, in case of the loss of the whole or part of the sections, to indemnify for the loss. The area here reported as granted is the result of a calculation based on the whole area of the State. By the act of June 16, 1880 (21 Stat. L., 287), the school land grant of Nevada, exclusive of lands already sold by the State, was converted into a definite grant of 2,000,000 acres. The grants to the Territories are in the nature of reservations, subject to absolute grants on their admission into the Union.

† Penitentiary buildings and appurtenant lands have been granted to Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming, but the exact area of lands has not been ascertained.

‡ Title to desert lands does not vest till after proof of irrigation, reclamation, and settlement.

§ Normal schools.

TABLE, PART 2.—Area of lands donated to States by the grant for internal improvements, and the saline and swamp land grants; also the area of various other donations made in lieu of the said grants.

States.	Internal improvement grant.	Salt springs and contiguous lands.	Swamp and overflowed lands. (Claims reported to December 31, 1895.)*	Grants in lieu of the internal improvements, saline and swamp land grants.															Total.
				Agricultural colleges (additional)	Blind, deaf, and dumb asylums.	Charitable, educational, penal, and reformatory institutions.	Fish hatchery.	Hospital for miners.	Insane asylum.	Normal school.	Penitentiaries.	Poor farm.	Public buildings (additional)	Reform schools.	School of mines.	Scientific schools.	Universities.	Water reservoirs.	
	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.
Alabama	500,000	23,040	531,355.60																1,054,395.60
Arkansas	500,000	46,080	8,656,372.39																9,202,452.39
California	500,000		1,887,685.23																2,387,685.23
Colorado	500,000	46,080																	546,080
Florida	500,000		22,244,541.07																22,744,541.07
Idaho						150,000			50,000	100,000	50,000					100,000	50,000		500,000
Illinois	500,000	121,029	3,981,784.10																4,602,813.10

*The swamp-land grant is an indefinite grant, since it is of all the swamp and overflowed lands rendered thereby unfit for cultivation and remaining unsold at the dates of the grants. The acreage given in this table represents the lands claimed up to this time; as there is no limit to the quantity the States may claim in the future the true area granted can not be stated.

TABLE, PART 2.—Area of lands donated to States by the grant for internal improvements, etc.—Continued.

States.	Internal improvement grant.	Salt springs and contiguous lands.	Swamp and overflowed lands. (Claims reported to December 31, 1895.)*	Grants in lieu of the internal improvements, saline and swamp land grants.															Total.
				Agricultural colleges (additional)	Blind, deaf, and dumb asylums.	Charitable, educational, penal, and reformatory institutions.	Fish hatchery.	Hospital for miners.	Insane asylum.	Normal schools.	Penitentiaries.	Poor farm.	Public buildings (additional).	Reformatory schools.	School of mines.	Scientific schools.	Universities.	Water reservoirs.	
	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>
Indiana	500,000	23,040	1,377,727.70	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,900,767.70
Iowa	500,000	46,080	4,570,132.33	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5,116,212.33
Kansas	500,000	46,080	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	546,080
Louisiana	500,000	.....	11,769,455.83	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	12,269,455.83
Michigan	500,000	46,080	7,293,159.28	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	7,839,239.28
Minnesota	500,000	46,080	4,738,549.78	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5,284,629.78
Mississippi	500,000	.....	3,603,921.68	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4,103,921.68
Missouri	500,000	46,080	4,843,636.09	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5,389,716.09
Montana .....	.....	.....	.....	50,000	50,000	.....	.....	.....	.....	100,000	.....	.....	150,000	50,000	100,000	.....	.....	.....	500,000
Nebraska	500,000	46,080	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	546,080
Nevada	500,000	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	500,000
North Dakota .....	.....	.....	.....	40,000	40,000	170,000	.....	.....	.....	80,000	.....	.....	50,000	40,000	40,000	.....	40,000	.....	500,000
Ohio	500,000	24,216	117,931.28	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	642,147.28
Oregon	500,000	46,089	434,428.45	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	980,508.45
South Dakota .....	.....	.....	.....	40,000	40,000	170,000	.....	.....	.....	80,000	.....	.....	50,000	40,000	40,000	.....	40,000	.....	500,000
Utah .....	.....	.....	.....	.....	200,000	.....	.....	50,000	100,000	100,000	.....	.....	.....	100,000	100,000	.....	.....	500,000	1,150,000
Washington .....	.....	.....	.....	.....	.....	200,000	.....	.....	.....	100,000	.....	.....	100,000	.....	.....	100,000	.....	.....	500,000
Wisconsin	500,000	.....	4,569,712.12	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	5,069,712.12
Wyoming .....	.....	.....	.....	.....	30,000	290,000	5,000	30,000	30,000	.....	30,000	10,000	75,000	.....	.....	.....	.....	.....	500,000
Total	9,500,000	606,045	80,620,392.93	130,000	360,000	980,000	5,000	80,000	180,000	560,000	80,000	10,000	425,000	230,000	280,000	200,000	130,000	500,000	94,876,437.93
Aggregate .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	95,070,293.65
Aggregate .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	189,946,731.58

*The swamp-land grant is an indefinite grant, since it is of all the swamp and overflowed lands rendered thereby unfit for cultivation and remaining unsold at the dates of the grants. The acreage given in this table represents the lands claimed up to this time; as there is no limit to the quantity the States may claim in the future the true area granted can not be stated.